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BACK PAY LEGISLATION

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HEARING
BEFORE THE
SUBCOMMITTEE ON CIVIL SERVICE
OF THE
COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
UNITED STATES SENATE
EIGHTY-NINTH CONGRESS
SECOND SESSION
ON
H.R. 1647

FEBRUARY 17, 1966

Printed for the use of the
Committee on Post Office and Civil Service



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BACK PAY LEGISLATION

THURSDAY, FEBRUARY 17, 1966

U.S. SENATE,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 6202, New Senate Office Building, Hon. Donald Russell presiding.

Present: Senator Russell.

Also present: David Minton, general counsel; LeGrand A. Rouse II, and Hugh B. Key II, professional staff members; Frank A. Paschal, minority clerk.

Senator RUSSELL. We will come to order.

Senator Randolph is unavoidably detained at the White House this morning, and in his absence I shall open the hearing so that we may proceed without delay.

This hearing is convened to hear testimony on H.R. 1647, a bill to consolidate and liberalize the law on "back pay" for Federal employees who are removed from their positions and subsequently reinstated by appellate authority.

(The bill referred to follows:)

[H.R. 1647, 89th Cong., 1st sess.]

AN ACT To provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Back Pay Act of 1965".

SEC. 2. For the purposes of this Act—

(1) "agency" means—

- (A) each executive department of the Government of the United States;
- (B) each agency or independent establishment in the executive branch of such Government;
- (C) each corporation owned or controlled by such Government;
- (D) the Administrative Office of the United States Courts;
- (E) the Library of Congress;
- (F) the General Accounting Office;
- (G) the Government Printing Office; and
- (H) the municipal government of the District of Columbia.

SEC. 3. Each civilian officer or employee of an agency who, on the basis of an administrative determination or a timely appeal, is found, on or after the date of enactment of this Act, by appropriate authority under applicable law or regulation to have undergone an unjustified or unwarranted personnel action taken prior to, on, or after the date of enactment of this Act, which has resulted in the withdrawal or reduction of all or any part of the pay, allowances, or differentials of such officer or employee—

(1) shall be entitled, upon correction of such personnel action, to receive for the period for which such personnel action was in effect an amount commensurate with the amount of all or any part of the pay, allowances, or differentials, as applicable, which such officer or employee normally would have earned during such period if such personnel action had not occurred,

less any amounts earned by him through other employment during such period; and

(2) for all purposes, shall be held and considered to have rendered service for such agency during such period, except that such officer or employee shall not be credited, by reason of the enactment of this Act, leave in an amount which would cause any amount of leave to his credit to exceed any maximum amount of such leave authorized for such officer or employee by law or regulation.

SEC. 4. The United States Civil Service Commission shall prescribe regulations to carry out the provisions of this Act. Such regulations shall not be applicable with respect to the Tennessee Valley Authority and its officers and employees.

SEC. 5. There are hereby repealed—

(1) section 6(b) of the Act of August 24, 1912, as amended (5 U.S.C. 652 (b)); and

(2) that part of the third proviso of the first section of the Act of August 26, 1950 (5 U.S.C. 22-1), which reads: “, and if so reinstated or restored shall be allowed compensation for all or any part of the period of such suspension or termination in an amount not to exceed the difference between the amount such person would normally have earned during the period of such suspension or termination, at the rate he was receiving on the date of suspension or termination, as appropriate, and the interim net earnings of such person”

Passed the House of Representatives February 10, 1965.

Attest:

RALPH R. ROBERTS,
Clerk.

Senator RUSSELL. I would like to have inserted in the hearing record at this point a statement by the Honorable Lindley Beckworth, a U.S. Congressman from the State of Texas, who is the author of H.R. 1647. Mr. Beckworth is not able to be with us this morning, but his statement will appear in the record and I am sure we will benefit from his views.

(The statement referred to follows:)

STATEMENT BY HON. LINDLEY BECKWORTH, U.S. REPRESENTATIVE FROM THE
STATE OF TEXAS

Mr. Chairman, before discussing the merits of my bill, H.R. 1647, I will express my sincere thanks to the chairman and members of the subcommittee for scheduling this hearing at an early date in the current session of the 89th Congress.

As most of the subcommittee members will recall, I have had a long and active interest in seeing that the proposals contained in my bill are enacted into law. I introduced H.R. 10685 in the 87th Congress, and hearings were held on the bill. Again, in the 88th Congress, I sponsored H.R. 4837, which passed the House. My present bill, H.R. 1647, was unanimously approved by the House last year.

This legislation represents an official recommendation of the administration and should be enacted into law promptly. It covers all officers and employees in the executive branch, in the Administrative Office of the U.S. Courts, in the Library of Congress, in the General Accounting Office, in the Government Printing Office, and in the municipal government of the District of Columbia.

This bill is basically perfecting legislation, and creates no new rights of employment tenure, review, or appeal. It merely authorizes adjustments in salaries and other benefits that are warranted in consequence of corrective personnel actions that may be taken under existing law. Where an improper personnel action has been taken and is corrected by appropriate authority, the bill will make the affected employee “whole” for pay and other employment benefit purposes. For example, if an employee was improperly separated and is restored to duty, he will be deemed to have rendered service at his proper grade during the period of improper separation and will be paid the difference between what he normally would have earned had it not been for the improper separation and what he actually did earn during that period.

Present laws to some extent cover most adverse personnel actions in which backpay is justified, and the principle of backpay as part of corrective action is well established. However, these laws consist of a hodgepodge of separate enactments, none complete in itself. This piecemeal approach leaves gaps in

coverage and permits nonuniform application in many instances. H.R. 1647 rewrites, improves, and reenacts, on a selective basis, the best elements from current backpay authorities. The new provisions effect a consolidation of present authorizations into a single, comprehensive, and equitable statement of employee entitlement to compensation and other benefits which will be applied in every backpay case.

I believe that the extensive records of consideration, as well as the affirmative approvals of this legislation by my committee and by the House, clearly establish that H.R. 1647 is worthwhile and needed legislation. It is my sincere hope that the bill will receive prompt approval by this subcommittee, by the Senate committee, and by the Senate so that its value may be fully realized beginning with the 89th Congress.

I thank you for the privilege of presenting this statement in support of H.R. 1647.

Senator RUSSELL. Our first witness is Mr. John W. Macy, Jr., Chairman of the U.S. Civil Service Commission

STATEMENT OF JOHN W. MACY, JR., CHAIRMAN OF THE U.S. CIVIL SERVICE COMMISSION

Mr. MACY. Thank you very much. I appreciate your convening this subcommittee and I am grateful for the opportunity to testify on this legislation.

I have a brief statement which I would like to read, if I may sir.

The bill before the committee, H.R. 1647, proposes to establish a single, comprehensive backpay authority to make employees "whole" financially—for pay or benefits lost as a result of an improper personnel action.

The object is to put the employee back where he would have been if nothing untoward had happened to him. We believe that simple equity requires this and that a single authority as proposed in this bill would accomplish it.

The bill would create no new employee appeal rights and would not change appeal procedures or the nature of corrective actions. To preserve his right to backpay the employee would still have to exercise any appeal rights available to him within the prescribed time limits.

However, if no appeal channel is available this would not prevent the agency from awarding backpay on its own initiative upon acknowledging and correcting an erroneous action.

The source of the present difficulty is the patchwork character of existing provisions of law. Current authorities to grant backpay, while they are adequate in many respects, are not uniformly applicable either to all situations or to all employees.

There are gaps in coverage which have necessitated the application of somewhat different principles of reimbursement depending upon the circumstances.

This bill would supersede the backpay provisions of Public Laws 80-623 and 81-733 and would provide a specific legislative foundation for the Civil Service Commission's authority in this area.

The proposed bill also extends backpay protection to employees who do not in most cases have it. Employee coverage is extended to:

First, employees serving probationary or trial periods. Second, nonveterans in the excepted service who have been improperly removed, suspended, or demoted. Third, nonveterans in the competitive service who have been improperly demoted.

Pay and benefits coverage are extended by including:

First, credit for leave accumulation (not authorized under Public Law 80-623). Second, credit for pay increments such as within-grade increases and general pay raises (not authorized under either Public Law 80-623 or 81-733). Third, credit for all of the period of suspension or termination resulting from erroneous actions in security cases (under Public Law 81-733 agency heads may now pay for all or any part of the period).

Both Public Laws 623 and 733 are currently interpreted as including in a backpay computation to premium pay, including overtime pay, which an employee normally would have earned, and certain allowances and differentials. These would also be covered in the bill under consideration.

The proposed backpay authority will make for greater speed and efficiency in completing corrective actions. Agencies will be able to make pay adjustments immediately upon corrections of an erroneous action. Agencies will be able to extend such adjustments to all employees in the same circumstances when an appeal is won by any of those involved.

This type of agency discretion should lead to a reduction in the number of private relief bills. It should make for savings in time and cost which will substantially offset any increases occasioned by the slightly more extensive coverage.

While this bill closes gaps in current backpay coverage and is somewhat more generous than the least liberal of existing authorities, it is basically perfecting legislation.

Again I wish to emphasize that it does not create any new rights of tenure, review, or appeal. It is concerned only with the backpay consequences of correcting personnel actions. However, by bringing existing authorities under one tent and clarifying and extending their coverage, both the interest of equity to employees and administrative efficiency will be served.

I would also like to call the attention of the subcommittee to the attachment to my statement which I believe, in a tabular form, illustrates the gaps in the present coverage of the existing statutory authority for backpay. I will not take the time to read this, but just to illustrate that the picture is irregular with different statutory authorities and with different areas of coverage.

For example, in the last line, the matter of demotions, there is backpay interpreted for veterans by the Comptroller General. There is clearly no coverage for nonveterans. In the excepted service, again by the Comptroller General interpretation, there is coverage, and for nonveterans no coverage.

I believe on each of these actions this illustrates the situation that this bill is intended to correct. So as I indicated, this is an effort to provide legislation to bring all of these authorities into one statute and to have consistent coverage, both in terms of the employees involved and the nature of the actions involved.

I am very happy to have this opportunity and I will be pleased to answer any questions you may have concerning this bill.

Senator RUSSELL. The real purpose of this bill is to provide uniformity and consistency in terms of all Government employees?

Mr. MACY. That is correct.

Senator RUSSELL. To have a single statute to cover it.

Mr. MACY. This is an effort to bring into one statute all of these authorities. This will simplify operations and I might underscore what I said earlier, I believe this will reduce the workload of the Congress on the flow of private relief bills. Those bills are initiated because there is no existing administrative authority to take the corrective action called for.

Senator RUSSELL. We certainly are happy to have heard from you. Thank you.

Mr. MACY. Thank you very much.

Senator RUSSELL. The next witness is Mr. John Griner, president of the American Federation of Government Employees.

**STATEMENT OF THOMAS G. WALTERS, SPECIAL ASSISTANT FOR
LEGISLATION, AMERICAN FEDERATION OF GOVERNMENT EM-
PLOYEES, AFL-CIO, ACCOMPANIED BY W. J. BOSS**

Mr. WALTERS. Chairman Russell, I am talking to you as the special assistant for legislation, pinch-hitting for National President Griner, who was unavoidably called out of the city.

With your permission I would like to have the record show that W. J. Boss, our research man for the American Federation of Government Employees is also with me.

It is a little unusual for the employee groups, and especially the one I represent, to wholeheartedly endorse and support in detail the statements made by the Commission or so-called management, but this is one instance where we are all in agreement. Everybody seems to be attempting to do the same thing and that is to coordinate the different laws that have been passed and did not quite do the job that they were intended to do.

I certainly agree with Chairman Macy that in our opinion this will not only expedite the handling and settling of these many claims but will reduce the work of the Congress in an effort to bring about justice to these people who fit not exactly into the present law that is on the books.

So, with your permission, I would ask the privilege of filing our statement and to say that we wholeheartedly endorse this legislation and we trust that this committee, along with the full committee and the Senate, will speedily enact it into law.

With that, Mr. Chairman, we appreciate the privilege and opportunity of coming before you and endorsing this legislation.

Senator RUSSELL. The statement will be included in the record.

Thank you very much.

(The statement referred to follows:)

STATEMENT BY THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

The American Federation of Government Employees supports the objective of H.R. 1647, which is to correct defects in existing legislation as it relates to the suspension or removal of Federal employees.

This bill which was sponsored by Representative Beckworth was approved by the House February 10, 1965, and it is our hope that the Senate committee will see its way clear to report the bill favorably to the Senate after an examination of its purposes and the need for amending existing laws.

The need for this legislation is imperative because it would make certain that Federal employees who have been improperly suspended or removed from their civil service positions would receive the pay or the annual leave which they had

lost because of such erroneous action. Hence the bill is referred to as the Back Pay Act. Congress on three different occasions enacted legislation for the purpose of crediting pay and leave to employees who had been vindicated after suspension or removal proceedings. Each time this supposed corrective legislation was enacted it was found to have failed to make the required restoration of pay or annual leave of which the employee had been deprived.

When Public Law 623 was enacted in the 80th Congress, it was believed that it had authorized restoration of benefits lost because of an erroneous or wrongful suspension or separation. That law amended the Lloyd-La Follette Act of 1912 and authorized the restoration of compensation an employee would have otherwise lost in nonsecurity cases of improper separation and suspension. The law covered nonveterans having civil service status in the competitive civil service as well as veterans who had completed their probation. After the law became effective, it was found that it had restored the pay which had been withheld but had failed to provide for the recrediting of accumulated annual leave which the employee lost at the time the erroneous action had taken place.

In the 81st Congress, Public Law 733, was enacted 2 years after Public Law 623 became effective. Again it was believed that the defects of the earlier legislation had been corrected. This second enactment, Public Law 733, protected employees in the executive branch of the Government who had been suspended or terminated in erroneous security actions. However, it became apparent that the law permitted recrediting of annual leave but did not require the employee to be paid for the entire period during which he had been suspended or removed from the employment roll.

This later statute authorized agency heads to determine whether an employee would be paid for all or only part of a period subsequent to suspension or removal. Thus, it was possible for an employee to be paid for as little as a day or a week of a period which could be several months or more. Enactment of legislation such as H.R. 1647 is needed to make certain that a Federal employee who has been suspended or separated will be compensated for the entire time he has been erroneously removed from the payroll.

Neither Public Law 623 nor Public Law 733 authorized credit for within-grade salary increments or for increases in basic salaries provided by Congress during the period an employee had been removed from the employment roll. H.R. 1647 would remedy this deficiency in these laws.

The Veterans Preference Act of 1944 is a third law which was believed to have authorized retroactive compensation in these cases but actually had done so only to a limited degree. It was found that this act applied to improper demotions of veterans who had completed a probationary period. It also authorized back pay in cases involving an erroneous reduction-in-force action affecting both veterans and nonveterans.

It should be noted that section 3 of the bill provides for the restoration of differentials as well as pay and allowances of which an employee had been deprived. This wording is needed to assure an employee of having included in his back pay computation the premium pay, including overtime payments, which he normally would have earned. The bill would also insure restoration of such allowances and differentials as cost-of-living allowances in certain nonforeign areas and living quarters allowance authorized in foreign areas if Government quarters are not provided without cost.

An earlier version of this bill in the House was retroactive to the extent of covering adverse personnel actions taken prior to the date of enactment of the proposed law, that is, actions which were still unresolved upon enactment of this bill.

When such a proposal as embodied in this bill was under consideration 2 years ago the Civil Service Commission estimated the cost then as not exceeding \$500,000 in the then current year. It is unlikely that this estimate would have changed substantially since that time.

We commend this bill to the committee for its favorable consideration in the belief that it is needed as a matter of justice. That statement is made in the belief that, in enacting the earlier legislation to which reference has been made, Congress intended to do what would be accomplished by H.R. 1467. It would, therefore, be an assurance of the fulfillment of the intent of Congress.

Thank you, Mr. Chairman, and members of the committee for receiving this statement.

Senator RUSSELL. Next is Mr. James Rademacher from the National Association of Letter Carriers.

**STATEMENT BY JAMES H. RADEMACHER, VICE PRESIDENT,
NATIONAL ASSOCIATION OF LETTER CARRIERS**

Mr. RADEMACHER. My name is James H. Rademacher and I am the vice president of the National Association of Letter Carriers, with headquarters in the NALC Building, Washington, D.C.

In behalf of 175,000 members of our organization, I am today supporting H.R. 1647. Our interest stems not only from the merit and justice provided in the measure, but from experience with actual cases where postal workers have been denied retroactive benefits because of their status.

I refer to career substitute workers and temporary employees who have not been entitled to retroactive benefits when they have been restored to their positions following removal.

All employees who have been appointed from a civil service register should be entitled to equal treatment. The status of an employee—probationary, temporary, substitute, and so forth should not be a deterrent to receiving benefits to which regular employees are entitled.

In most cases, when an employee has been restored to his position, either by the Civil Service Commission or the agency's appeals system, such restoration has come about after exhaustive study and determination that the agency had acted improperly in causing the removal in the first place.

Because of the fact that there is apparent administration support for this proposal, our organization desires to merely go on record as approving H.R. 1647 and urging that prompt action be taken to correct the injustice which now exists in frequent personnel actions in many agencies.

We want to thank the Subcommittee on Civil Service for their keen interest in this legislation and for permitting this opportunity to appear.

Senator RUSSELL. Thank you very much, Mr. Rademacher. It is always a pleasure to hear the view of your organization. Our next witness is Mr. Patrick J. Nilan, legislative representative of the United Federation of Postal Clerks.

**STATEMENT OF PATRICK NILAN, LEGISLATIVE DIRECTOR, UNITED
FEDERATION OF POSTAL CLERKS, AFL-CIO**

Mr. NILAN. Thank you very much.

Like my associate who preceded me, Tom Walters of the AFGE, I do join in the statements he made in support of the previous witness, Mr. John Macy. It is very gratifying to appear before a committee of the Congress and find that both management and labor are supporting the same type of legislation to have a remedial effect upon our people that may be adversely affected under present law.

Also, Mr. Chairman, with your permission I would like to submit our statement for the record and would only comment specifically on one part of it; namely, on page 2, in which we want to indicate our enthusiastic support of the intent of section 3 of the pending legislation which in the House report accompanying the bill specifically recognizes realistically that if a postal clerk had part-time work outside of the Government service, prior to any unwarranted suspension or removal, that he would not be required to have such amounts of pay received from the part-time work deducted from any retroactive

reimbursement compensation paid by the Government upon restoration to Government employment.

Regretfully, many, many, many of our postal clerks do have no choice but to be employed part time outside of the postal service because of the comparatively low salaries received as postal employees.

We do agree that this legislation, the intent of it, would certainly realistically take care of those situations.

With that, thank you very much for the opportunity to be before you, and if you have any questions I will be happy to respond.

Senator RUSSELL. The statement will be incorporated in the record. (The statement referred to follows:)

STATEMENT OF UNITED FEDERATION OF POSTAL CLERKS, AFL-CIO, PRESENTED
BY PATRICK J. NILAN, LEGISLATIVE DIRECTOR

Mr. Chairman and members of the committee, for the record, I am Patrick J. Nilan, national legislative director of the United Federation of Postal Clerks AFL-CIO, with headquarters at 817 14th Street NW., Washington, D.C.

Speaking in behalf of the Nation's 245,000 postal clerks, for whom we are the exclusive national representative under the Federal labor-management program, I wish to express appreciation for the opportunity to appear before this committee.

Our organization has testified on numerous occasions in recent years before committees of the Congress in support of legislation similar to H.R. 1647 which is presently being considered by this distinguished committee. We want to commend the chairman and the committee for scheduling these hearings on H.R. 1647, and we strongly endorse this legislation which proposes to provide for payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof.

In testifying today, we realize that there are certain public laws which do provide for retroactive reimbursement in the event of unwarranted removal from the Federal service. Unfortunately, existing laws do not provide for restoration of all benefits which a postal clerk loses as a result of unwarranted suspension, demotions, separations, and even in some cases, retirements. We recognize that while H.R. 1647 is basically perfecting legislation it would also correct many inequities and injustices to which members of our union are subjected, and presently have no recourse or remedy under existing law.

Certainly a postal clerk is adversely affected by administrative actions which are subsequently rescinded or reversed. The employee in such cases should have restored to him, not only lost pay, but also overtime, night differential, or other additional premium pay, as well as automatic credit for periodical pay step increases to which he would have been entitled had he not been separated or made a victim of other adverse action in the Government service.

Mr. Chairman and members of the committee, we believe H.R. 1647, which expands the scope of personnel actions covered by existing law to cover all unjustified or unwarranted personnel action, in addition to unjustified or unwarranted removal or suspension will provide the Government workers with the kind of protection which they are entitled to, both as American citizens as well as employees of our great country. We certainly appreciate the introduction of H.R. 1647, which establishes and applies on a uniform basis the basic principle that a Government officer or employee should be "made whole" following the correction of an unjustified or unwarranted personnel action.

Mr. Chairman, the United Federation of Postal Clerks enthusiastically supports section 3 of the bill which specifically would recognize realistically that if a postal clerk had part-time work outside of the Government service, prior to any unwarranted suspension or removal, that he would not be required to have such amounts of pay received for the part-time work deducted from retroactive reimbursement compensation paid by the Government upon restoration to Government employment. Regretfully, many, many postal clerks have no choice but to be employed part time outside the postal service because of the comparatively low salaries received as postal employees.

We believe the report accompanying H.R. 1647, as approved by the U.S. House of Representatives, will result in a fair and equitable application of these important protections for postal clerks and all Federal workers.

Certainly H.R. 1647, which proposes to provide for the complete restoration of seniority, service credit toward retirement, group life insurance, group health

insurantee, and all other benefits of employment which may have been affected by the unjustified or unwarranted personnel action will further protect the postal clerk and other Government workers against unwarranted and adverse personnel actions.

We concur most wholeheartedly, Mr. Chairman, with the obvious intent of H.R. 1647, which recognizes that when an employee is separated illegitimately, if we may use that term, he certainly suffers the full penalty of such action. Therefore, same standards that applied to the employee should apply equally to the employer (even though that employer may be the U.S. Government) and therefore, as previously mentioned, such an employee, at the very least, is entitled to be "made whole" by his employer.

The United Federation of Postal Clerks appreciates this opportunity to testify Mr. Chairman and members of the committee, in support of H.R. 1647. We urge early enactment of this legislation into law. If we can be helpful in any other way to this committee, we shall appreciate being called on.

Mr. PASCAL. Mr. Nilan, would you explain a little more in detail this section 3? It appears to me there might be some questions arising on page 3 of your statement, where you speak of your employees on a part-time basis as affected by this bill.

Mr. NILAN. I will be happy to respond. The act itself is not as specific as perhaps it could be in regard to the statement that I offered. But in referring to the House report which accompanied the legislation and which we would hope would be incorporated in the final report accompanying it to the Senate, on page 6, where it is explaining section 3 of the bill regarding backpay, it points out if an employee is suspended, demoted, or separated and prior to that time he had part-time employment outside of the Government, in conjunction with his regular employment in the postal service as an example, that he would, it would be recognized that the part-time pay he had previously would not be deducted from any reimbursement from his retroactive postal pay.

Mr. PASCAL. Would there have to be an amendment to the act?

Mr. NILAN. I don't believe that is necessary as long as the intent of the Congress is explained in the accompanying report, because we do believe it is specific. It refers to three different conditions of part-time work in which, if the part-time work was increased to a full-time position during the man's suspension from the service, he would only be charged that amount which was in addition to the part-time work he previously had.

I believe, Mr. Chairman, that the intent of Congress is certainly very well defined in the accompanying report and it will take care of the problem.

Senator RUSSELL. Thank you very much.

Mr. NILAN. Thank you very much, Mr. Chairman.

Senator RUSSELL. The committee has been informed that our next witness, Mr. Nathan Wolkomir, president, National Federation of Federal Employees, is ill. We have received his statement and it will be inserted in the record.

(The document referred to follows:)

STATEMENT OF NATHAN T. WOLKOMIR, PRESIDENT, NATIONAL FEDERATION OF
FEDERAL EMPLOYEES

My name is Nathan T. Wolkomir. I am president of the National Federation of Federal Employees. Our organization has members in virtually all departments and agencies and represents all grades and skills.

Mr. Chairman, on behalf of the NFFE I wish to reaffirm our strong support for H.R. 1647, the measure to consolidate and liberalize present law on the payment

of salary to an employee who has been removed from his Federal position and subsequently reinstated by appellate authority.

What this means is, simply, a bill designed to do something which long has needed doing; namely, to establish a uniform system of retroactive backpay and other benefits for Federal employees who have been wrongfully and unjustly separated from the service, suspended, or downgraded, by their respective departments and agencies.

As the subcommittee is aware, this is an area which long has needed the kind of remedial attention set forth in the provisions of H.R. 1647.

Department and agency rules, regulations, and implementations have varied widely. Employees wrongfully removed and then restored have suffered disabilities which are so obviously unfair and unreasonable that both in the Congress and in the executive branch there has been general agreement that action along the lines of H.R. 1647 is seriously overdue.

Thus, the legislative history of this measure reveals that it first was proposed by the administration so long ago as September 1961.

The House of Representatives has passed this bill on three separate occasions, evidence of the strong and continuing recognition of the need for the legislation. It passed the House on June 13, 1962; on July 6, 1964; and also on February 10, 1965, in the 1st session of the 89th Congress.

Regretfully, the bill has not yet seen Senate action, and it is our hope and our urgent request that the bill be favorably reported at this time so that it may come to an early vote in the Senate.

Certainly the provisions of the bill are unexceptionable. So far as we know, there is no opposition to them, since they simply provide equity to an employee following circumstances in which he has been the subject of an erroneous action and judgment.

Surely it is right and proper that under such circumstances an employee wrongfully separated, suspended, or downgraded should be accorded full retroactive pay and benefits when decision has been reached that the employee's department or agency, or the courts, or the Civil Service Commission, have erred. These benefits include in addition to salary, his leave, retirement, insurance, and others.

An important feature of the bill is to be found in the provision calling for its application Government-wide.

Uniformity will not only redound to the benefit of the employees but will make for more efficient administration, and thus will benefit the Federal Government as employer.

Mr. Chairman, over the years the National Federation of Federal Employees has had long experience with the inequitable effects of past and present department and agency policies in this area and we know from case studies the actual hardships which often have resulted. These cases have been called to the attention of some of the members of this committee and are again available for record if needed.

At the present time, as a single example of many that might be cited, there is up for consideration by the Department of the Air Force the case of an employee in Alaska, a member of the NFFE, who was capriciously separated from the service because he exercised the personal right to grow a beard. After the NFFE called attention to the case of this member—and it also was the subject of pertinent comment on the floor of the U.S. Senate—this employee recently has been restored to duty. Thanks to the help of both Congressman Rivers and Senator Bartlett. But to date he has not been properly compensated either in salary, in annual leave he was forced to use, in insurance coverage, essential travel costs, etc. The erroneous action by the Department of the Air Force has proved to be very costly to this employee, working at a remote installation in Alaska. We believe that equity demands full rectification in this and in the many other cases which occur over the years in an establishment so extensive as the Federal Government. The case in question was termed "a close shave" but the employee remains nicked and bleeding.

Mr. Chairman, I again urge prompt and favorable action on H.R. 1647, and wish to express to the subcommittee the thanks of the NFFE for the interest shown by these hearings.

Senator RUSSELL. Mr. John McCart.

**STATEMENT OF JOHN McCART, OPERATIONS DIRECTOR,
GOVERNMENT EMPLOYEES' COUNCIL, AFL-CIO**

Mr. McCART. Mr. Chairman, I am John A. McCart, operations director of the Government Employees' Council. Our organization consists of 31 AFL-CIO unions representing Federal employees.

We appear today to endorse the pending legislation as we have for a number of years in the past. I think the purpose has been outlined quite well by the previous witnesses and with your permission I would like to file the prepared statement, which we have supplied to the subcommittee, and I would like to make just an extemporaneous remark or two.

I think, basically, the legislation is designed to accomplish the intent of Congress when it enacted Public Laws 623 and 733, which was to compensate employees, who are unjustly separated or demoted, upon their restoration to duty, and to apply the purpose of the law equitably among all groups of Federal employees. This, it seems to me, is the basic concept involved in the pending legislation. For that reason we feel it is highly commendable.

For that reason we suggest that the bill be approved as it is now. But, at a later time, we think it well to give some attention to some of the other problems connected with disciplinary action against Federal employees. For example, it is my understanding that an individual who is disciplined and suspended for less than 30 days and who, upon appeal, is later vindicated, is not entitled to the retroactive pay provisions under existing law.

Now, while this is not pertinent to the specific legislation that is pending, we do believe that it warrants the attention of Congress in connection with its general overview of the Federal personnel program.

I certainly want to endorse the suggestions offered by Mr. Nilan and the other organization representatives.

Thank you, Mr. Chairman.

Senator RUSSELL. The statement will be incorporated in the record. Thank you.

(The document referred to follows:)

STATEMENT OF THE GOVERNMENT EMPLOYEES' COUNCIL, AFL-CIO

Mr. Chairman and members of the committee, the Government Employees' Council, representing 31 unions, whose membership consists wholly or partially of Federal Government employees, desires to endorse the measure under consideration today.

We wish to extend our appreciation to you and your colleagues on the subcommittee for arranging this hearing.

You will recall that similar legislation was approved by the House in the 87th and 88th Congresses. House Report No. 32 of the current Congress outlines the purpose of the bill. As approved unanimously by the House February 10, 1965, H.R. 1647 is designed primarily to achieve a uniform method of restoring to Federal workers subjected to unjust personnel actions the financial and other losses incurred as a result of these actions. The legislation restores the individual to the same status he held prior to the unwarranted action.

In presenting this basic purpose, we do not desire to convey the impression that there are no existing statutes on this subject. Public Law 623, approved June 10, 1948, and Public Law 733, dated August 26, 1950, govern the conditions under which employees may receive retroactive pay when their suspension or removal is later found unwarranted. However, these laws do not cover certain vital elements of pay, and are generally inadequate.

We emphasize that the pending bill does not bestow on employees any additional rights to tenure or appeal.

What are some of the present defects the proposed legislation will remedy?

It will permit crediting any periodic step increases or general pay increases which would have accrued to the employee during the interim.

It will permit crediting overtime and night differential pay to which an individual would have been entitled if the adverse personnel action had not been taken.

It will permit extension of the retroactive pay principle to all Federal workers, regardless of status, in cases involving separation (including retirement), suspension or demotion.

It will permit restoration of an individual to his former status either upon his appeal or the voluntary action of the agency in recognizing the injustice of the original action.

It will clarify the present provision on restoring accumulated annual and sick leave by specifically authorizing such restoration within the maximum amounts permitted by other laws.

The bill you are now considering will correct the inequities noted above and will mold into one statute the previous diverse enactments on this subject.

Surely there can be little quarrel with the concept that an individual who has suffered erroneously and unjustly should be placed as nearly as practicable in the same status he would have enjoyed if the adverse action had not occurred. This is precisely the objective of H.R. 1647.

We are convinced that this was the fundamental intent of Congress in enacting the original statutes. From that standpoint, the bill under consideration today serves only to clarify and specify the purpose of "making whole" the employee who is wrongly penalized.

Mr. Chairman, the council is happy to announce its support of this meritorious legislation and to urge early, favorable action by the committee.

Senator RUSSELL. Mr. Florian L. Frillman.

STATEMENT OF FLORIAN L. FRILLMAN, WASHINGTON, D.C.

Mr. FRILLMAN. I represent myself as an individual who is removed from the Federal service. At the present time I have my case in the Court of Claims. I did not come here with a prepared text or statement, but Mr. Macy made the remark that employees would be reimbursed for any losses that they incurred while they were dismissed from the Government service in case they were reinstated.

Now, I have been put to the expense of \$2,000 for lawyers' fees and I do not think there is any provision in this bill to reimburse the employees for lawyers' fees, but at the same time that is a loss of wages while you are out of work. I am a man 68 years old and with my meager income I have to supplement it with work that I would not ordinarily have to do in order to pay this lawyer. So part of the money I am making at the present time goes to the payment of the lawyer, and I think it should be deductible from any amount of money that I have earned while I am out of the employ of the Federal service.

Another thing that I have been told is that if you take cases to the Court of Claims, that while they can give you a monetary award for loss of pay, they cannot have you reinstated into the service. So, under that type of an agreement, the man would lose credit for his leave and any other fringe benefits that he would be entitled to. He would only be paid for the actual loss of wages that he had incurred.

I don't know whether this would be considered an amendment to the bill or not, but it seems to me like any court decision favorable to the employee should entail all the benefits that he would be entitled to if the Civil Service Commission ordered him, found him not guilty of the offense that he was charged with.

Senator RUSSELL. Those are your two objections to the bill?

Mr. FRILLMAN. I think that the bill is a good bill with the exception that any lawyer's fee should be included as a loss of wages while you were unemployed. I think it is a very good bill and I am highly in favor of it.

I want to thank you gentlemen for the time and for listening to my plea.

Senator RUSSELL. We are very happy to have had you.

I believe that concludes all the witnesses.

This was the bill to achieve uniformity and there seems to be a uniformity of views among all witnesses in favor of the bill.

At this point I will ask that there be inserted in the record a letter from Mr. L. Quincy Mumford, Librarian of Congress, concerning suggested amendments to the bill as it would apply to employees of the Library of Congress.

(The letter referred to follows:)

THE LIBRARY OF CONGRESS,
Washington, D.C., February 14, 1966.

HON. JENNINGS RANDOLPH,
*Chairman, Subcommittee on Civil Service, Post Office and Civil Service Committee,
U.S. Senate, Washington, D.C.*

DEAR SENATOR RANDOLPH: This is in reference to H.R. 1647, a bill which provides for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees deprived thereof, and for other purposes. H.R. 1647 was passed by the House of Representatives on February 10, 1965, and is now scheduled for hearings before your committee on February 17, 1966.

H.R. 1647 would apply to the Library of Congress. The Library welcomes this proposed legislation but requests that the bill be amended to make it clear that the Library is not subject to the jurisdiction of the Civil Service Commission in matters of appeals mentioned in H.R. 1647, and is exempted in several other respects.

House Report No. 32, February 9, 1965, states that H.R. 1647 is intended to consolidate existing legislation. Provisions specifically mentioned in this context are 5 U.S.C. 652b, 5 U.S.C. 22-1, and 5 U.S.C. 868. These provisions deal, respectively, with reinstatement of discharged employees following an appeal to the Civil Service Commission, suspension of employees for security reasons by the heads of executive agencies, and the making and enforcement of rules and regulations by the Civil Service Commission in regard to the classified civil service. None of these provisions apply to the Library of Congress.

Section 4 of H.R. 1647 provides that the Civil Service Commission shall prescribe regulations to carry out the provisions of this act. If applicable, this provision throws doubts on the authority of the Librarian of Congress under 2 U.S.C. 140, which grants him complete authority to hire or dismiss employees on the basis of their fitness for their duties, and on his authority under 2 U.S.C. 136, which provides that he shall make rules and regulations for the government of the Library. In the exercise of this function, elaborate appeals procedures have been established by the Library. House Report No. 32 provides in the first complete paragraph on page 4 that an appeal may be "properly made to a Government agency or to the U.S. Civil Service Commission." In the third paragraph on page 4 the report states that, in some instances, the appropriate authority is the Civil Service Commission. These statements refer to the term "appropriate authority" in section 3 of H.R. 1647. The granting of any appeals rights of Library employees to the Civil Service Commission, which may be the consequence of enactment of H.R. 1647 in its present form, would be incompatible with the Librarian's statutory authority in personnel matters cited above.

It is, therefore, respectfully suggested that H.R. 1647 be amended by omitting the period at the end of the second sentence of section 4 of the bill, and by adding the words "and the Library of Congress and its officers and employees," and by adding a new subparagraph at the end of section 3 to read "(3) in the case of the Library of Congress the term 'appropriate authority' as used herein shall mean the Librarian of Congress; provided that this Act shall have no retroactive effect in the case of the Library of Congress."

The above-suggested proviso would permit continuance of the Library's present practice in respect to pending claims but would provide for conformity with the procedures proposed in H.R. 1647 for claims arising after enactment of this legislation.

Sincerely yours,

L. QUINCY MUMFORD,
Librarian of Congress.

Senator RUSSELL. We will keep the record open for 5 days to include any additional material.

The meeting is adjourned.

(Whereupon, at 10:30 a.m., the committee adjourned.)

APPENDIX

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
Kansas City, Mo., February 21, 1966.

HON. JENNINGS RANDOLPH,
*Chairman, Subcommittee on Civil Service, Committee on Post Office and Civil Service,
U.S. Senate, Washington, D.C.*

DEAR SENATOR RANDOLPH: This is to inform you that the VFW endorses and strongly supports H.R. 1647, Back Pay Act of 1965, which is before your subcommittee.

The Veterans of Foreign Wars of the United States, at its last national convention held in Chicago, Ill., from August 13-20, 1965, unanimously adopted Resolution No. 15. Section 9 of this resolution is "establishment of a single, equitable rule governing backpay for reinstated Federal employees."

It is our understanding that, under the present regulations, some employees who have been reinstated in their jobs after erroneous and unwarranted personnel action, are denied backpay for the period when they were appealing agency action.

H.R. 1647, if enacted into law, will establish a single, general, and comprehensive pay adjustment for all employees rather than the piecemeal approach now in effect which cannot be applied to all situations and employees.

It will be deeply appreciated if this letter will be made part of the record.

With best wishes and kind personal regards, I am,

Yours in comradeship,

FRANCIS W. STOVER,
Director, National Legislative Service.

LEGISLATIVE HISTORY

Public Law 89-380

H. R. 1647

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Index and summary of H. R. 1647	.1
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INDEX AND SUMMARY OF H. R. 1647

Jan. 6, 1965	Rep. Beckworth introduced H. R. 1647 which was referred to House Post Office and Civil Service Committee. Print of bill as introduced.
Feb. 4, 1965	House committee voted to report H. R. 1647.
Feb. 9, 1965	House committee reported H. R. 1647 without amendment. H. Report No. 32. Print of bill and report.
Feb. 10, 1965	House passed H. R. 1647 without amendment.
Feb. 11, 1965	H. R. 1647 was referred to Senate Post Office and Civil Service Committee. Print as referred.
Mar. 9, 1966	Senate committee voted to report H. R. 1647.
Mar. 10, 1966	Senate committee reported H. R. 1647 with amendment. Print of bill and report. S. Rept. 1062.
Mar. 14, 1966	Senate passed H. R. 1647 as reported.
Mar. 21, 1966	House concurred in Senate amendment.
Mar. 30, 1966	Approved: Public Law 89-380.

Hearing: Senate committee on H. R. 1647.

DIGEST OF PUBLIC LAW 89-380

BACK PAY ACT OF 1966. Provides that upon restoration of employment to any Government employee, against whom adverse action has erroneously or unjustifiably been taken, the employee receive the same employment benefits he would have received had the unjustified or erroneous personnel action not been taken.

89TH CONGRESS
1ST SESSION

H. R. 1647

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1965

Mr. BECKWORTH introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That this Act may be cited as the "Back Pay Act of 1965".

4 SEC. 2. For the purposes of this Act—

5 (1) "agency" means—

6 (A) each executive department of the Govern-
7 ment of the United States;

8 (B) each agency or independent establish-
9 ment in the executive branch of such Government;

1 (C) each corporation owned or controlled by
2 such Government;

3 (D) the Administrative Office of the United
4 States Courts;

5 (E) the Library of Congress;

6 (F) the General Accounting Office;

7 (G) the Government Printing Office; and

8 (H) the municipal government of the District
9 of Columbia.

10 SEC. 3. Each civilian officer or employee of an agency
11 who, on the basis of an administrative determination or a
12 timely appeal, is found, on or after the date of enactment of
13 this Act, by appropriate authority under applicable law or
14 regulation to have undergone an unjustified or unwarranted
15 personnel action taken prior to, on, or after the date of
16 enactment of this Act, which has resulted in the withdrawal
17 or reduction of all or any part of the pay, allowances, or
18 differentials of such officer or employee—

19 (1) shall be entitled, upon correction of such per-
20 sonnel action, to receive for the period for which such
21 personnel action was in effect an amount commensurate
22 with the amount of all or any part of the pay, allow-
23 ances, or differentials, as applicable, which such officer
24 or employee normally would have earned during such
25 period if such personnel action had not occurred, less

any amounts earned by him through other employment during such period; and

(2) for all purposes, shall be held and considered to have rendered service for such agency during such period, except that such officer or employee shall not be credited, by reason of the enactment of this Act, leave in an amount which would cause any amount of leave to his credit to exceed any maximum amount of such leave authorized for such officer or employee by law or regulation.

SEC. 4. The United States Civil Service Commission shall prescribe regulations to carry out the provisions of this Act. Such regulations shall not be applicable with respect to the Tennessee Valley Authority and its officers and employees.

SEC. 5. There are hereby repealed—

(1) section 6 (b) of the Act of August 24, 1912, as amended (5 U.S.C. 652 (b)) ; and

(2) that part of the third proviso of the first section of the Act of August 26, 1950 (5 U.S.C. 22-1), which reads: “, and if so reinstated or restored shall be allowed compensation for all or any part of the period of such suspension or termination in an amount not to exceed the difference between the amount such person would normally have earned during the period

A BILL

To provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes.

By Mr. BECKWORTH

JANUARY 6, 1965

Referred to the Committee on Post Office and Civil
Service

1 of such suspension or termination, at the rate he was
2 receiving on the date of suspension or termination, as
3 appropriate, and the interim net earnings of such
4 person”.

Feb. 4, 1965

Rep. Poage stated that the President's message "should set at rest the... concern which has disturbed so many...since the Director of the Budget wrote his much quoted article which many people interpreted to indicate a desire to force some 2 $\frac{1}{2}$ million farm families out of their homes." p. 2028

12. RESEARCH. Rep. Roush discussed the "vital need for the maintenance and expansion of research programs." pp. 2004-5
13. FOREIGN AID. Reps. Senner and Michel spoke in favor of the amendment to the supplemental appropriation bill prohibiting sale of agricultural commodities to the UAR under title I of Public Law 480. pp. 2005-6, 2026-7
Rep. Albert inserted the President's statement on the amendment relating to the sale of surplus commodities to the UAR under title I of Public Law 480 favoring the modified version passed by the Senate. p. 2027
14. COTTON. Rep. Findley inserted a USDA price table and stated that "the purpose of the cotton legislation was to make cotton more competitive so farmers could have expanding markets" but after "more than \$300 million in handouts to textile mills, consumer prices are up, U. S. exports of raw cotton and textiles are down, and mills are showing the biggest margins in 19 years." pp. 2011-12
15. PERSONNEL. The "Daily Digest" states that the Post Office and Civil Service Committee voted to report (but did not actually report) the following bills: ~~H. R. 1535, to authorize the establishment of hazardous duty pay in certain cases;~~ H. R. 1647, to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof; H. R. 1746, to define the term "child" for lump-sum payment purposes; H. R. 1782, to amend the Retired Federal Employees Health Benefits Act with respect to Government contribution for expenses incurred in the administration of such Act; and H. R. 2594, to clarify the application of certain annuity-increase legislation. p. D76
16. LEGISLATIVE PROGRAM. Rep. Albert announced that on Mon., Feb. 8, a request will be made to send to conference H. J. Res. 234, the Department of Agriculture supplemental appropriation bill. p. 2017
17. ADJOURNED until Mon., Feb. 8. p. 2036

ITEMS IN APPENDIX

18. FOREIGN AID; SURPLUS FOOD. Rep. Tunney inserted an article critical of action by the House to restrict shipment of surplus commodities under Public Law 480 to the UAR, and Rep. Rumsfeld inserted an article favoring this action. pp. A462-3
19. AREA REDEVELOPMENT; ELECTRIFICATION. Rep. Younger inserted two articles, "The Greatest Growth Center," and "The New Rural Power Play," criticizing area redevelopment and rural electric cooperative programs. pp. A464-5
20. GRAIN; CCC. Extension of remarks of Rep. Nelsen criticizing CCC grain programs, urging Congress to consider legislation "to correct this devastating practice which has driven farm parity to a depression-time level," and inserting a radio roundup on this subject. p. A467
21. SCIENCE AND TECHNOLOGY. Rep. Miller, Calif., inserted a paper describing the importance of science and technology in relation to our foreign affairs. pp. A467-70

22. GOLDEN EAGLE. Extension of remarks of Rep. Fisher discussing the destruction of wild game and livestock by the golden eagle and criticizing Interior Dept. for not issuing blanket permits for the destruction of the golden eagle. pp. A472-3

BILLS INTRODUCED

23. PATENTS. S. 1005 by Sen. McClellan, to establish a procedure for the publication of patent applications; to Judiciary Committee. Remarks, p. 1961
S. 1006 by Sen. McClellan, and H. R. 4347 by Rep. Celler, for the general revision of the copyright law, title 17 of the United States Code; to Judiciary Committee. Remarks of Sen. McClellan, pp. 1961-2
24. PROPERTY. S. 1000 by Sen. Jackson, and S. 1004 by Sen. McClellan, to amend the act of July 29, 1954, as amended, to permit transfer of title to movable property to agencies which assume operation and maintenance responsibility for project works serving municipal and industrial functions; to Interior and Insular Affairs Committee. Remarks of Sen. Jackson, pp. 1959-60 and Sen. McClellan, pp. 1960-1
25. LANDS. S. 999 by Sen. Jackson, to amend the act of February 28, 1958, relating to the withdrawal, reservation, or restriction of public lands; to Interior and Insular Affairs Committee. Remarks of author, pp. 1958-9
S. 1007 by Sen. McClellan, to provide for the adjustment of the legislative jurisdiction exercised by the United States over land in the several States used for Federal purposes; to Government Operations Committee. Remarks of author, p. 1962
H. R. 4429 by Rep. Roncalio, to provide for reimbursement to the State of Wyoming for improvements made on certain lands in Sweetwater County, Wyo., if and when such lands revert to the United States; to Agriculture Committee.
26. RECREATION. H. R. 4410 by Rep. Pepper, to establish a Community Recreation Service in the Department of Health, Education, and Welfare; to Education and Labor Committee.
H. R. 4419 by Rep. Roncalio, to establish the Flaming Gorge National Recreation Area in the States of Utah and Wyoming; to Interior and Insular Affairs Committee.
H. R. 4420 by Rep. Roncalio, to provide for the establishment of the Bighorn Canyon National Recreation Area; to Interior and Insular Affairs Committee.
27. WOOL. S. 994 by Sen. McGee, to extend the operation of the National Wool Act of 1954, as amended; to Commerce Committee. Remarks of author, p. 1951
H. R. 4415 by Rep. Roncalio, to extend the operation of the National Wool Act of 1954, as amended; to Agriculture Committee
28. MONOPOLIES. S. 995, by Sen. Sparkman, to amend the Clayton Act by making section 3 of the Robinson-Patman Act, with amendments, a part of the Clayton Act, in order to provide for governmental and private civil proceedings for violations of section 3 of the Robinson-Patman Act; to Judiciary Committee.
29. FISHERIES. S. 998, by Sen. Magnuson, to extend the term during which the Secretary of the Interior is authorized to make fisheries loans under the Fish and Wildlife Act of 1956; to Commerce Committee. Remarks of author, pp. 1957-8
30. TRANSPORTATION. S. 1010, by Sen. Hartke, to repeal section 13a of the Interstate Commerce Act; to Commerce Committee.

House of Representatives

Chamber Action

Bills Introduced: 87 public bills, H.R. 4345-4431; 33 private bills, H.R. 4432-4464; and 102 resolutions, H.J. Res. 278-287, H. Con. Res. 170-259, and H. Res. 189 and 190, were introduced. Pages 2037-2042

Bills Reported: Reports were filed as follows:

H.R. 66, to authorize discharge of District of Columbia parolees from supervision prior to the expiration of their maximum term (H. Rept. 16);

H.R. 647, regarding appointment of new trustees in deeds of trust in D.C. (H. Rept. 17);

H.R. 947, to require reports to the police of motor vehicle collisions in the District of Columbia (H. Rept. 18);

H.R. 1064, expansion of D.C. Canine Corps (H. Rept. 19);

H.R. 1065, to amend the D.C. Sales Tax Act, amended (H. Rept. 20);

H.R. 1066, to increase the retirement salaries of certain retired D.C. judges (H. Rept. 21);

H.R. 1699, to amend the act regulating practice of podiatry in the District of Columbia (H. Rept. 22);

H.R. 1700, regarding voluntary admission of mental patients to the District Training School, amended (H. Rept. 23);

H.R. 948, to amend D.C. Code relating to divorce, legal separation, and annulment of marriage (H. Rept. 24);

H.R. 1007, regarding exemptions from attachment for nonresidents of the District of Columbia (H. Rept. 25); and

H.R. 3314, to require premarital examinations in the District of Columbia (H. Rept. 26). Page 2037

Committee and Commission Appointments: The Speaker announced the appointment of the following Members to membership on the following—

James Madison Memorial Commission: Representatives Smith of Virginia, Slack, Moore, and Glenn Andrews; and

Joint Committee on Atomic Energy: Representative McCulloch. Page 1991

President's Message—Agriculture: Received and read a message from the President transmitting his legislative recommendations for improving farm programs. The message was referred to the Committee on Agriculture and ordered printed as a House document (H. Doc. 73). Pages 1998-2002

Legislative Program: The legislative program for the week of February 8-13 was announced by the majority leader. Agreed to House adjournment from Thursday to Monday. Page 2017

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of February 10. Page 2018

Quorum Call: During the proceedings of the House today one quorum call developed and it appears on page 1998.

Program for Monday: Adjourned at 1:44 p.m. until Monday, February 8, 1965, at 12 o'clock noon. For program see Congressional Program Ahead in this DIGEST.

Committee Meetings

PUBLIC LAW 480

Committee on Agriculture: Met for an informal briefing with the new Members on Public Law 480 (83d Cong.), to extend the Agricultural Trade Development and Assistance Act of 1954.

MILITARY POSTURE

Committee on Armed Services: Met in executive session to continue a briefing on military posture. Cyrus R. Vance, Deputy Secretary of Defense, was heard.

BANK LEGISLATION

Committee on Banking and Currency: Continued a hearing on H.R. 45, Inter-American Development Bank legislation. Testimony was given by George W. Ball, Under Secretary of State; and Thomas Mann, Assistant Secretary of State for Inter-American Affairs and U.S. Coordinator for Alliance for Progress, accompanied by another departmental official.

CRIME

Committee on the District of Columbia: Met in executive session and continued on H.R. 946, omnibus crime bill. No announcements were made.

AGED—AGING

Committee on Education and Labor: Select Subcommittee on Education met in executive session and ordered reported favorably to the full committee H.R. 3708, regarding aged and aging.

HIGHER EDUCATION

Committee on Education and Labor: Special Subcommittee on Education continued hearings on H.R. 3220 and H.R. 3221, Higher Education Act of 1965. Testimony was given by public witnesses.

EDUCATION

Committee on Education and Labor: General Subcommittee on Education met in executive session on H.R. 2361 and H.R. 2362, regarding the Elementary and

Secondary Education Act of 1965. The committee will continue in executive session on Friday, February 5.

MANPOWER DEVELOPMENT

Committee on Education and Labor: Select Subcommittee on Labor held a hearing on Manpower Development and Training Act. Testimony was given by W. Willard Wirtz, Secretary of Labor.

FOREIGN AID

Committee on Foreign Affairs: Held a hearing on foreign aid request for fiscal year 1966, and heard testimony from David E. Bell, Administrator, Agency for International Development.

MINES AND MINING

Committee on Interior and Insular Affairs: Subcommittee on Mines and Mining held a briefing on mineral activities other than those of the Bureau of Mines. Testimony was given by Assistant Secretary of the Interior John M. Kelly.

ORGANIZATIONAL MEETING

Committee on Post Office and Civil Service: Met in executive session for organizational purposes, and adopted the rules of the committee for this Congress.

Ordered reported favorably to the House the following bills:

~~H.R. 158, to amend the Civil Service Retirement Act to permit the recovery by the Government of amounts due the Government in the settlement of claims under such act;~~

~~H.R. 1535, to amend the Classification Act of 1949 to authorize the establishment of hazardous duty pay in certain cases;~~

H.R. 1647, to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof;

H.R. 1746, to define the term "child" for lump-sum payment purposes under the Civil Service Retirement Act;

H.R. 1782, to amend the Retired Federal Employees Health Benefits Act with respect to Government contribution for expenses incurred in the administration of such act; and

H.R. 2594, to clarify the application of certain annuity increase legislation.

APPALACHIA

Committee on Public Works: Ad Hoc Subcommittee on Appalachia continued hearings on H.R. 4, S. 3, and related bills, to provide public works and economic redevelopment programs and the planning and coordination needed to assist in the development of the Appalachian region. Testimony was given by Representative Whitener for Gov. Dan K. Moore, of North Carolina, Representative Grover for Gov. Frank G. Clement, of

Tennessee, Gov. J. Millard Tawes, of Maryland, Gov. William Scranton, of Pennsylvania, Gov. Hulett Smith, of West Virginia; Commissioner of Finance and Administration, Tennessee, Harlan Matthews.

Statements were presented for the record by Donald Russell, Governor of South Carolina; Albertis S. Harrison, Jr., Governor of Virginia; Carl Sanders, Governor of Georgia; and James A. Rhodes, Governor of Ohio.

MEDICARE

Committee on Ways and Means: Met in executive session to continue on hospitalization benefits, changes in Social Security Act. The committee will continue in executive session Friday, February 5.

Joint Committee Meetings

AEC AUTHORIZATIONS

Joint Committee on Atomic Energy: Committee continued, in executive session, its hearings on proposed fiscal 1966 authorizations for the Atomic Energy Commission, receiving testimony from Lt. Gen. Harold C. Donnelly, Defense Atomic Support Agency, DOD; Maj. Gen. Jermaine F. Rodenhauser, Chief, and Doyle L. Northrup, both of the Air Force Tactical Applications Center; and Dr. Robert C. Sproull, Director, and Robert A. Frosch, both of Advanced Research Projects Agency. Today's testimony was related chiefly to nuclear test ban safeguard requirements.

BRIEFING BY CIA

Joint Committee on Atomic Energy: Committee met in executive session to hear CIA Director John A. McCone conclude his annual briefing.

CONGRESSIONAL PROGRAM AHEAD

Week of February 8-13

(Committee meetings are open unless otherwise indicated)

Senate Chamber

On Monday, February 8, Senate will consider the 35 reported resolutions providing for expenditures by the various Senate committees. On Tuesday, February 9, Senate will take up S. 28, proposed Materials Reserve and Stockpile Act. Other bills to be reported next week from the Committee on Interior and Insular Affairs will be considered. On February 11, Senate will take Lincoln Day recess until February 16. When Senate resumes consideration of legislative business on Wednesday, February 17, it is expected to take up S.J. Res. 1, Presidential succession and inability constitutional amendment. Following that it is hoped to take up "gold cover" bill.

Senate Committees

Committee on Agriculture and Forestry: February 9 and 10, Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, on S. 821, to provide for acreage-poundage

Feb. 9, 1965

12. LEGISLATIVE PROGRAM. Sen. Mansfield stated that it is anticipated that the Senate will next "take up five or six bills which have been reported from the Senate Committee on Interior and Insular Affairs, and possibly some nominations." p. 2345

HOUSE

13. EDUCATION. Rep. Derwinski stated that "steamroller tactics are being used" to push through the Federal aid to education bill whereas the scope of the bill "requires that it be given a thorough study," and inserted the testimony of Dr. Francis J. Brown before the subcommittee. pp. 2409-11
14. TARIFF. Received from the State Department a proposed bill to suspend duty on tropical hardwoods; to Ways and Means Committee. p. 2412
15. APPROPRIATIONS. Permission was granted, at the request of Rep. Albert, to take up on Wed. a special resolution providing funds for the Commodity Credit Corporation and to call up the conference report on the supplemental appropriations if it is filed. pp. 2371-3
16. PERSONNEL. The Post Office and Civil Service Committee reported without amendment H.R. 158, to permit recovery of the Government of amounts due it in the settlement of claims under the Civil Service Retirement Act (H. Rept. 29), H.R. 1535, to establish hazardous duty pay in certain cases (H. Rept. 31), H.R. 1647, for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof (H. Rept. 32), H.R. 1746, to define the term "child" for lump-sum payment purposes under the Civil Service Retirement Act (H. Rept. 33), H.R. 1782, with respect to Government contribution for expenses incurred in the administration of the Retired Federal Employees Health Benefits Act (H. Rept. 34), and H.R. 2594, to clarify the application of certain annuity increase legislation (H. Rept. 35). pp. 2412-13

ITEMS IN APPENDIX

17. SOIL CONSERVATION. Extension of remarks of Rep. Schmidhauser inserting a constituent's letter expressing concern over the possibility that funds for conservation work may be reduced. p. A535
18. MANPOWER TRAINING. Rep. Roosevelt inserted an address, "The Past, Present, and Future of the Manpower Development and Training Act." pp. A542-5
19. ELECTRIFICATION; INTEREST RATES. Extension of remarks of Rep. Vanik inserting a Nat'l Rural Electric Cooperative resolution objecting to high interest rates. pp. A548-9
20. FOREIGN AID; SURPLUS FOOD. Speeches in the House by Reps. Philbin and Todd during debate on the USDA supplemental appropriation bill expressing their opinion that the President should have flexibility in the granting of aid to UAR. pp. A549-50, A554
- Extension of remarks of Rep. Tenzer stating that "I would not want to see the hands of the President tied because of our expression of opposition" to the granting of aid to UAR. p. A550
- Extension of remarks of Sen. Scott stating that "...a continuation of U. S. aid to Egypt is a shortsighted and, indeed, a dangerous policy," and inserting an article "Nasserism Without Illusions." pp. A523-4

Extension of remarks of Rep. Bandstra stating that "the sale of farm commodities to the United Arab Republic, ..., is a matter involving the foreign policy of the United States," and inserting an article, "Best To Sell Soybeans, Food to Red Nations." pp. A534-5

21. WOOL IMPORTS. Extension of remarks of Rep. Conte urging a restriction on wool imports to protect the interests of American wool manufacturers, pp. A526-7
22. FOREIGN TRADE. Rep. Keogh inserted an article, "Trade Troubles: Imports Exceed Exports in Britain--But United States Piles Up Surplus--Rising Prices Hurt Sales of Foreign Nations' Goods--Uncle Sam's Capital Outflow." pp. A533-4
23. FARM INCOME. Extension of remarks of Rep. Bandstra inserting a speech of Iowa's Governor Hughes in which he stated "...our farmers are in trouble due to the cost-price squeeze. A cutback in farm price supports would hurt them and the entire Middle West." p. A531
24. POVERTY. Extension of remarks of Rep. Gonzalez calling attention to the conditions in an area of Texas which he stated are worse than those of Appalachia and inserting an article, "One Thousand Miles of Poverty." pp. 528-31

BILLS INTRODUCED

25. FOREIGN AID. S. 1069 by Sen Proxmire, to amend section 604 of the Foreign Assistance Act of 1961 so as to prohibit the use of funds made available under such act for payment for petroleum products at prices in excess of competitive market prices, or for the payment of barter agents' commissions; to Foreign Relations Committee. Remarks of author pp. 2277-8
S. 1057 by Sen. Fulbright, to authorize the use of excess Government-owned foreign currencies to finance the establishment abroad of binational foundations for educational and scientific purposes; to Foreign Relations Committee. Remarks of author p. 2259
26. CONSUMERS. S. 1052 by Sen. Hart and H.R. 4652 by Rep. Rosenthal, to establish an Office of Consumers in order to secure within the Federal Government effective representation of the economic interests of consumers; to act as a central clearinghouse in Government for consumer complaints; to disseminate information to consumers; to Government Operations Committee. Remarks of Sen. Hart pp. 2254-6. Remarks of Rep. Rosenthal pp. 2374-5
27. TAXATION. H. R. 4607 by Rep. Utt, H. R. 4659 by Rep. Saylor, H. R. 4668 by Rep. Wilson and H. R. 4710 by Rep. Horton, to permit any wage earner to defer payment of a portion of the difference between the income tax imposed for a taxable year beginning in 1964 and the amount deducted and withheld upon his wages during 1964; to Ways and Means Committee. Remarks of Rep. Wilson p. A548.
28. WOOL. H. R. 4643 by Rep. Morris and H. R. 4666 by Rep. Walker, New Mexico, to extend the operation of the National Wool Act of 1954, as amended; to Agriculture Committee.
29. RECLAMATION. S. 1072 by Sen. McGee and H. R. 4712 by Rep. Roncallio, to reauthorize the Riverton extension unit, Missouri River Basin project, to include all the Riverton reclamation project; to Interior and Insular Affairs Committee.

BACK PAY ACT OF 1965

FEBRUARY 9, 1965.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MURRAY, from the Committee on Post Office and Civil Service, submitted the following

R E P O R T

[To accompany H.R. 1647]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 1647) to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The general purpose of this legislation is to extend to all Federal officers and employees on a more uniform and equitable basis the existing provisions of law that provide for restoring to an employee pay and other benefits which he has lost because of an unjustified or unwarranted personnel action that is later corrected by appropriate authority. The bill establishes a single, general, and comprehensive pay adjustment authority to be applied after an erroneous or unwarranted personnel action is corrected. The employee involved would be "made whole" financially for pay and employment rights lost or diminished because of the improper action.

BACKGROUND

This legislation originally was introduced at the request of the U.S. Civil Service Commission as one of its major legislative goals in the 88th Congress. It is the result of extensive consultation with employee groups and agencies extending over a period of several years. A similar bill, H.R. 11753, was unanimously reported from this committee in the 87th Congress and passed the House on the Consent Calendar on June 18, 1962, but was not acted upon by the Senate.

The administration, by letter of February 1, 1965, has reaffirmed its position.

STATEMENT

Most adverse personnel actions where backpay is justified are already covered in some way by current authorities and the principle of backpay as a part of corrective action is well established. The present authorities are section 6(b) of the act of August 24, 1912, as amended June 10, 1948, Public Law 623, 80th Congress (5 U.S.C. 652(b)); a portion of the third proviso of the first section of the act of August 26, 1950, Public Law 733, 81st Congress, as amended (5 U.S.C. 22-1); and section 19 of the Veterans' Preference Act of 1944, as amended (5 U.S.C. 868). However, this existing legislation has led to a piecemeal approach to the problem and it leaves gaps in coverage in that it may not be applied uniformly to all situations and to all employees.

For example, nonveterans have narrower backpay rights than veterans but there are still many veterans and nonveterans alike who cannot receive backpay at all except through correction of erroneous reduction-in-force actions. This number includes all employees serving probationary or trial periods, many nonveterans who are employed by their Government outside the competitive civil service, and all nonveterans in the competitive service when an erroneous "demotion for cause" is corrected.

H.R. 1647 has largely selected the best elements from current backpay authorities and consolidated them into one logical, equitable, and comprehensive statement of entitlement with respect to compensation and employee benefits to be applied in every backpay case. It supersedes the backpay provisions of Public Laws 80-623 and 81-733 and provides a more specific legislative foundation for the Civil Service Commission's authority in this area under the Veterans' Preference Act.

H.R. 1647 is basically perfecting legislation. It does not create any new rights of tenure, review, or appeal. It is concerned only with adjustments in salary and other benefits that are appropriate in consequence of corrective actions that may now be taken. It requires only that, when an erroneous action has been corrected by the appropriate authority, the employee will, for pay and other employment benefit purposes, be deemed to have rendered service at his proper grade during the period, and it will require that he be paid the difference between what he normally would have earned and what he actually earned for the period.

In summary, then, H.R. 1647 revises and extends existing law as follows:

First, the bill covers all officers and employees of the executive branch of the Federal Government as well as officers and employees of the Administrative Office of the U.S. Courts, the Library of Congress, the General Accounting Office, the Government Printing Office, and the municipal government of the District of Columbia.

Second, the bill provides that, in those cases in which a right of appeal is specifically granted by law or regulation, or in which Government authority on its own initiative has discovered the necessity of correcting an improper personnel action, corrective action shall be taken which, to the extent practicable, restores to the officer or em-

ployee concerned his compensation and other employment rights and benefits on a retroactive basis.

Third, the bill expands the personnel actions covered by existing law (i.e., unjustified or unwarranted removals and suspensions) to cover any other unjustified or unwarranted personnel action as well as unjustified or unwarranted removals and suspensions.

EXPLANATION OF THE BILL BY SECTIONS

The first section of the bill provides a short title for the proposed backpay law—the Back Pay Act of 1965.

Section 2 of the bill (together with the references to officers and employees in sec. 3) provides for the coverage of the bill by defining the term “agency” to cover those Government agencies set forth above in this explanation.

Section 3 of the bill literally provides that each civilian officer or employee of an agency who, on the basis of an administrative determination or a timely appeal, is found, on or after date of enactment of this legislation, by appropriate authority under applicable law or regulation to have undergone an unjustified or unwarranted personnel action taken prior to, on, or after the date of enactment of the bill, which has resulted in the withdrawal or reduction of all or any part of the pay, allowances, or differentials of such officer or employee—

(1) shall be entitled, upon correction of such personnel action, to receive for the period for which such personnel action was in effect an amount commensurate with the amount of all or any part of the pay, allowances, or differentials, as applicable, which such officer or employee normally would have earned during such period if such personnel action had not occurred, less any amounts earned by him through other employment during such period; and

(2) for all purposes, shall be held and considered to have rendered service for such agency during such period, except that such officer or employee shall not be credited, by reason of the enactment of the bill, leave in an amount which would cause any amount of leave to his credit to exceed any maximum amount of such leave authorized for such officer or employee by law or regulation.

The following observations may be made about section 3 of the bill:

(1) Section 3 covers each civilian officer or employee of an agency (as defined in sec. 2) whether in the competitive civil service, in the excepted service, or elsewhere.

(2) It is intended that the words “administrative determination,” as used in section 3, be held and considered to refer to a decision made by appropriate Government authority on its own initiative. It is not intended that such words be held and considered to refer to a decision which the appropriate Government authority has been required to make in order to act upon a formal appeal. One effect of the use of the words “administrative determination” is to grant to a Government agency the right and opportunity, at its option, to rectify injustices, which come to its attention, in connection with backpay in cases of unjustified or unwarranted personnel actions. It is hoped that this factor of administrative determination will be especially

remedial in those cases in which no appeal is available to the officer or employee concerned.

(3) The use of the words "timely appeal" continues in the backpay law the concepts, policies, and practices of other laws, now or hereafter enacted, relating to Government employee appeals, and the concepts, policies, and practices of the regulations under such laws. The words "timely appeal" refer to an appeal which is properly made to a Government agency or to the U.S. Civil Service Commission and which seeks reconsideration of an official personnel action affecting an officer or employee adversely. This appeal will be initiated by the officer or employee or his representative under an appeals system or procedure established by law or regulation. This appeal must have been accepted as a timely appeal by the Government authority administering the appeals system or procedure concerned. The words "timely appeal," as used in section 3, are not intended to create any new concept of timeliness.

(4) The use of the words "unjustified or unwarranted personnel action" incorporates into the proposed new backpay law the same concepts regarding such words as used in the proposed new law as were developed in the administration and application of section 6 of the act of August 24, 1912, in connection with such words. The interpretation of the phrase "unjustified or unwarranted" with reference to adverse personnel actions in the administration of section 6 of the act of August 24, 1912, covers both equitable and procedural considerations. This interpretation follows the decisions of the U.S. Court of Claims in the cases of *Stringer v. United States* (117 Court of Claims 30) and *Garcia v. United States* (123 Court of Claims 722) and follows the ruling of the Comptroller General of the United States contained in 34 Comptroller General 568.

(5) The words "appropriate authority" are intended to refer to the agency, office, or official authorized under applicable law or regulation to correct, or to direct the correction of, the unjustified or unwarranted personnel action. In some instances, this "appropriate authority" is the U.S. Civil Service Commission. In other instances, such authority is found at a certain level of agency management as defined in applicable regulations and delegations of authority thereunder.

(6) The words "under applicable law or regulation," in connection with a finding made by appropriate authority under applicable law or regulation, are intended to cover those laws and regulations, now or hereafter in effect, which provide the basis for operations under the Government personnel systems. The backpay provisions of section 3 of the bill will operate on the basis of these laws and regulations, now or hereafter in effect. Such laws and regulations will provide means and procedures for the reconsideration of unjustified or unwarranted personnel actions, provide the legal basis for taking proper personnel actions and for correcting unjustified or unwarranted personnel actions, and establish the places where the authority is found to correct improper personnel actions.

(7) Neither section 3 nor any other provision of the bill attempts to define the words "personnel action" or to enumerate the kinds of "personnel actions" covered by the bill. Any unjustified or unwarranted personnel action—that is, a personnel action taken with impropriety—is within the purview of the bill. However, it is anticipated that these actions will consist of unjustified or unwarranted

separations (including retirements), suspensions, and demotions in most cases.

(8) As in the case of the words "personnel action," no attempt is made to define or enumerate the specific types of corrective action which may be taken with respect to the correction of unjustified or unwarranted personnel actions. The phrase "upon correction of such personnel action" is incorporated in section 3 of the bill to insure that the appropriate administrative action (whatever it might be consistent with applicable laws and regulations) is taken before an entitlement to backpay is created.

(9) It is important to note that section 3 of the bill establishes an entitlement to backpay in each case in which a personnel action (which has terminated or decreased the pay, allowances, or differentials of an officer or employee) subsequently is found, on or after date of enactment, by appropriate authority to be unjustified or unwarranted and is corrected by or through appropriate authority. This entitlement to backpay, allowances, or differentials is dependent upon the occurrence of the following situations:

(A) An official personnel action has been taken which terminated or decreased all or part of the pay, allowances, or differentials of a Government officer or employee.

(B) Such personnel action has been made the subject of review by appropriate authority, either because of a timely appeal on the part of such officer or employee or because the appropriate Government authority, on its own initiative, decided to review such personnel action.

(C) Such personnel action has been found by the appropriate Government authority to be unjustified or unwarranted.

(D) A corrective action, consistent with applicable laws or regulations, has been authorized by the appropriate Government authority as a consequence of its decision.

(10) Section 3 of the bill, in effect, establishes and applies, as nearly as practicable on a uniform basis, the principle that a Government officer or employee should be made whole following the correction of an unjustified or unwarranted personnel action. The committee is informed that regulations promulgated under the bill will define in detail the extent of the adjustment in the pay, allowances, or differentials of such officer or employee following correction of an unjustified or unwarranted personnel action. This adjustment will cover everything to which such officer or employee normally would have been entitled if the personnel action had not occurred. It is anticipated that the regulations will provide that such adjustment shall take into account those occurrences which affect the amount of pay, allowances, or differentials to which such officer or employee is entitled. Occurrences which will operate to reduce such amount include, for example, death before final adjudication of an appeal, separation or furlough as a result of a reduction in force, transfer from one agency to another agency, and imprisonment for crime. Section 3 of the bill does, however, assure credit for certain increments which operate to increase such amount. These increments include, for example, periodic within-grade increases and general pay increases to which the officer or employee would have been entitled if the unjustified or unwarranted personnel action had not occurred.

Section 6 of the act of August 24, 1912, and the first section of the act of August 26, 1950, prevent the crediting of these increments in

computing the amount of backpay. On the other hand, under current interpretation, such provisions of law are held and considered to include in a backpay computation the premium pay which an employee normally would have earned. In order to preserve this interpretation, section 3 of the bill retains the phrase "normally would have earned," which appears in such act of August 26, 1950, and which is the subject of an interpretation by the Comptroller General of the United States in 34 Comptroller General 382.

(11) Section 3 of the bill provides that the amount of backpay to which an officer or employee is entitled shall be reduced by whatever amount the officer or employee earned through other employment during the period the unjustified or unwarranted personnel action was in effect. The U.S. Court of Claims and the Comptroller General of the United States interpreted the words "other employment" as covering only that employment engaged in by the officer or employee to take the place of the employment which the officer or employee had prior to the unjustified or unwarranted personnel action. This interpretation was discussed by the U.S. Court of Claims in the case of *Jackson v. United States* (121 Court of Claims 405) and by the Comptroller General of the United States in 32 Comptroller General 408. In effect, if an employee had been separated from his position, the amount of his entitlement would be the difference between the amount his Government income should have been and the amount which he actually earned in an employment obtained to take the place of his Government employment. If the officer or employee had been demoted, the amount to which he would be entitled would be the difference between the amount his income should have been in the proper grade and the amount of his income at the lower grade. If the officer or employee already has been working in a part-time job in, for example, private enterprise, at the time of his removal or suspension from Government employment as a result of the unjustified or unwarranted personnel action, such part-time job is not "other employment" within the meaning of section 3 of the bill because it does not take the place of his Government employment. If such officer or employee were able to expand such part-time job to a full-time job, or were to take a second part-time job, as a substitute for Government employment, it is intended that, under this bill, only those hours on the full-time job in excess of the aggregate of the hours worked on the part-time job, or only the hours worked on the second part-time job, as the case may be, are to be considered as "other employment" in place of Government employment.

(12) Section 3 of the bill provides, in effect, that for all purposes the officer or employee shall be held and considered to have rendered service during the period of the unjustified or unwarranted personnel action. The words "for all purposes" are intended to provide for the complete restoration of seniority, service credit toward retirement, group life insurance, group health insurance, and all other benefits of employment which may have been affected by the unjustified or unwarranted personnel action. This result is consistent with the current Government administration of those matters following a court or U.S. Civil Service Commission restoration order. In addition, leave accumulation, excluded specifically from the backpay provisions of section 6 of the act of August 24, 1912, is authorized uniformly by section 3 of the bill in accordance with the precedent of the more recent act of August 26, 1950. However, the usual ceilings on leave

accumulation will be observed, as prescribed by the law or regulation covering the leave system to which the officer or employee is subject.

Section 4 of the bill authorizes the U.S. Civil Service Commission to prescribe regulations to carry out the provisions of the bill.

Section 5 of the bill repeals the so-called backpay provisions of section 6 of the act of August 24, 1912, and of the first section of the act of August 26, 1950.

COST

A precise statement of the cost of this proposal is not available without an unduly extensive, detailed, and costly study going into the experience of each Federal agency. The Civil Service Commission reports that it is not anticipated that the additional costs involved would be great and the committee agrees with this conclusion because—

(1) Since most adverse personnel actions involving backpay are already covered in some way by existing authorities, no great number of new cases which would add appreciably to costs are to be expected.

(2) The bill would tend to limit the number and the aggregate amount of retroactive payments because employees who neglect to use their appeal rights, if any, in a timely manner would lose their right to demand backpay.

(3) With such clear-cut and comprehensive entitlement established, agencies would have an added incentive to conduct their appeal and review activities in a fair, timely, and expeditious manner in order to minimize the cost of such entitlements.

(4) Those benefits to which employees are entitled on a contributory basis, such as retirement, life insurance, and health insurance, would not constitute added costs under the bill.

Nevertheless, regardless of the cost of this proposal, it must be emphasized that any costs that are involved represent pay and employment benefits which have been unjustly taken away from an employee and which equity requires be paid back to him as a part of the corrective action taken to make him whole financially. It must be further emphasized that any costs involved are of the type which agencies customarily absorb from their regular appropriations in the normal course of operations.

AGENCY COMMUNICATIONS

The official request of the U.S. Civil Service Commission for enactment of this legislation, along with letters of the U.S. Civil Service Commission to the chairman of this committee, dated May 7, 1963, and February 1, 1965, follow:

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., March 4, 1963.

HON. JOHN W. McCORMACK,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: We are submitting for the consideration of Congress proposed legislation to establish one general and equitable principle to be followed by all Federal agencies in restoring to their employees pay and other benefits of employment which are lost by reason of an unjustified or unwarranted personnel action subsequently

corrected by appropriate authority. There are enclosed (1) a draft bill; (2) a section analysis of the proposed bill; and (3) a statement of purpose and justification. The proposed bill is substantially the same as a proposal submitted to the 87th Congress, 1st session, on September 8, 1961. It is virtually identical to H.R. 11753 as passed in the House on June 18, 1962, except that subsection 2(1)(C) has been clarified and 2(1)(H) has been deleted.

The proposed bill presents one comprehensive and uniform authority for backpay entitlement and computation to replace the three current authorities, because these authorities are neither comprehensive nor uniform in their application. Specifically the bill is intended to supersede the pay provisions of Public Law 80-623 and Public Law 81-733. In addition this bill provides a more specific legislative foundation for the Civil Service Commission's authority in this area now exercised under section 19 of the Veterans' Preference Act.

In brief, the proposed bill enables appropriate authority following an administrative determination or timely appeal to pay an employee who has had his compensation terminated or reduced because of an unjustified or unwarranted personnel action the difference between what he earned and what he should have earned for the period. No entitlement is created, however, without a finding by appropriate authority that the action was indeed unjustified or unwarranted and a determination by such authority to take corrective action.

As amplified in the enclosed statement of purpose and justification, the proposed bill extends backpay protection to certain employees and situations not covered by present authorities. Significantly the proposed bill does not extend to any employee any rights of tenure, review, or appeal to which he is not otherwise entitled. It does require, however, that where an employee has a right to seek corrective action through administrative proceedings, and is successful in doing so, he will for pay, employment benefit, and other purposes be deemed to have rendered service at his proper grade during the period. Moreover, the proposal would strengthen the powers of agencies in making equitable pay and benefit adjustments following the correction of unjustified or unwarranted personnel actions which they decide to correct on their own initiative.

Timely processing of appeals should minimize individual retroactive payments. The cases which would be covered should continue to be largely those which are already covered by one or the other of the present authorities covering backpay. While it is not anticipated that the additional costs involved would be great, however, the principle which this bill would establish is an important one. For this reason it is hoped that the Congress will be able to act favorably on this legislation as soon as circumstances permit.

The Bureau of the Budget advises that from the standpoint of the administration's program there would be no objection to the submission of this proposal.

By direction of the Commission.

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 7, 1963.

HON. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, House Office Building.*

DEAR MR. CHAIRMAN: This is in reply to your telephone request of April 25, 1963, for the views of the Civil Service Commission on H.R. 4838, a bill to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes.

In most respects this bill is the same as the Commission's legislative proposal on backpay as passed in the House on June 18, 1962 (H.R. 11753, 87th Cong.). H.R. 4838 differs slightly in coverage, the Botanic Garden and the Office of the Architect of the Capitol having been deleted. The Commission does not object to this change. H.R. 4838 also differs in that a retroactive provision has been added in section 3.

As provided in H.R. 11753, the proposed backpay entitlement would have applied to unjustified or unwarranted personnel actions taken on or after the date of enactment. As provided in H.R. 4838, backpay entitlement would also cover errors made before enactment if the appropriate authority decided on or after the bill was enacted that an error had been made in some past action. We take this to mean that timely appeals in process but not decided at the time of enactment would come under the law, as would past actions an agency decides on its initiative to review, finds on or after the date of enactment to have been in error, and proceeds to correct.

Generally the Commission is reluctant to endorse retroactive provisions. Such provisions often create as many problems as they solve. Wherever the line is drawn in these matters there seems always to be someone just on the other side of it whose claim in all other respects is as good as those who fall within the limits set. The further back the line is drawn the harder it is to determine the facts and equities involved and the greater become the administrative and financial burdens on agencies. For these reasons we prefer to have legislation apply to cases arising after the remedy is authorized.

However, the retroactive provision of H.R. 4838 is limited to current cases involving past actions and thus is not as likely to cause undue difficulties. It would eliminate as a source of private relief bills a class of cases which might have particularly strong claims for relief; i.e., those cases in which the error is acknowledged or corrected after the bill becomes law but in which the remedy might be denied or might be less than complete because the erroneous personnel action took place before the effective date of the law.

The backpay principle we seek to establish, that is, to make employees "whole" financially for losses suffered through unwarranted or unjustified personnel actions, remains the same irrespective of the starting date. Therefore, if the committee prefers H.R. 4838, with its retroactive provision, to H.R. 4837, which does not have a retroactive provision, we would favor enactment of H.R. 4838.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission.

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., February 1, 1965.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives.

DEAR MR. CHAIRMAN: This is in further reply to your request of January 13, 1965, for the views of the Civil Service Commission on H.R. 253 (H.R. 1647) a bill to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes.

The Commission fully endorses this bill and urges its enactment. It is identical to a backpay proposal submitted by the Commission to the 88th Congress and introduced as H.R. 4837 on March 13, 1963. As amended, H.R. 4837 passed the House on July 8, 1963.

The object of the bill is to simplify and equalize existing backpay authorities so as to have a comprehensive, uniform authority for determining and computing backpay entitlement. To this end the bill would supersede the pay provisions of Public Law 80-623 and Public Law 81-733, and would provide a more specific statutory foundation for the authority the Commission now exercises under section 19 of the Veterans' Preference Act.

Essentially the bill is perfecting legislation. It would fill in gaps in the backpay protection currently afforded employees in various situations. It would not add any rights of tenure, review, or appeal, nor would it restrict or define the nature of corrective actions, but it would assure that any employee who appeals an unjustified or unwarranted personnel action under the procedures available to him, and is successful, would be "made whole" for the losses in pay and benefits he sustained because of the wrongful action. Similarly if an agency on its own initiative should discover that a wrongful action had been taken against an employee, and corrects the action, it would make the employee "whole" financially.

The bill authorizes the Civil Service Commission to prescribe regulations to carry out its provisions. The bill adequately safeguards the interest of agencies and employees. It does not require agencies to review actions. It does not diminish any right or benefit employees now have. It does require that appeals must be timely and it limits coverage to unjustified or unwarranted actions taken on or after the date of enactment.

With respect to this latter point, it should be noted that another backpay bill, H.R. 1647, which was introduced by Congressman Lindley Beckworth on January 6, 1965, provides for limited retroactivity. H.R. 1647 would cover actions taken prior to the date of enactment if the determination that prior actions were unwarranted or unjustified is made, and the actions corrected, on or after the date of enactment. This is the form in which H.R. 4837 of the 88th Congress was passed. While the Commission endorsed the bill as passed, the Commission's original proposal was entirely prospective in effect, as is the case with H.R. 253.

The Civil Service Commission is thoroughly convinced that backpay legislation is needed in the interest of (1) equity to all employees, (2) more efficient administration of the personnel laws, and (3) fewer costly and time-consuming private bills for the relief of employees

who suffer losses for which they are not uniformly entitled to compensation under current laws.

Since H.R. 253 is identical with the Commission's previous proposal, we do not plan to submit our own bill. Rather, we strongly recommend favorable action on H.R. 253 with the substitution of "1965" for "1963" in line 3.

By direction of the Commission.

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, existing law in which no change is proposed is shown in roman):

SECTION 6(b) OF THE ACT OF AUGUST 24, 1912 (5 U.S.C. 652(b))

[(b) (1) Any person removed or suspended without pay under subsection (a) who, after filing a written answer to the charges as provided under such subsection or after any further appeal to proper authority after receipt of an adverse decision on the answer, is reinstated or restored to duty on the ground that such removal or suspension was unjustified or unwarranted, shall be paid compensation at the rate received on the date of such removal or suspension, for the period for which he received no compensation with respect to the position from which he was removed or suspended, less any amounts earned by him through other employment during such period, and shall for all purposes except the accumulation of leave be deemed to have rendered service during such period. A decision with respect to any appeal to proper authority under this paragraph shall be made at the earliest practicable date.]

[(2) Any person who is discharged, suspended, or furloughed without pay, under section 14 of the Veterans' Preference Act of 1944, as amended, who, after answering the reasons advanced for such discharge, suspension, or furlough or after an appeal to the Civil Service Commission, as provided under such section, is reinstated or restored to duty on the ground that such discharge, suspension, or furlough was unjustified or unwarranted, shall be paid compensation at the rate received on the date of such discharge, suspension, or furlough for the period for which he received no compensation with respect to the position from which he was discharged, suspended, or furloughed, less any amounts earned by him through other employment during such period, and shall for all purposes except the accumulation of leave be deemed to have rendered service during such period.]

[(3) Any person removed or suspended without pay in a reduction in force who, after an appeal to proper authority, is reinstated or restored to duty on the ground that such removal or suspension was unjustified or unwarranted shall be paid compensation at the rate received on the date of such removal or suspension, for the period for which he received no compensation with respect to the position from which he was removed or suspended, less any amounts earned by him]

through other employment during such period, and shall for all purposes except the accumulation of leave be deemed to have rendered service during such period. A decision with respect to any appeal to proper authority under this paragraph shall be made at the earliest practicable date.】

THE FIRST SECTION OF THE ACT OF AUGUST 26, 1950
(5 U.S.C. 22-1)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 6 of the Act of August 24, 1912 (37 Stat. 555), as amended (5 U.S.C. 652), or the provisions of any other law, the Secretary of State; Secretary of Commerce; Attorney General; the Secretary of Defense; the Secretary of the Army; the Secretary of the Navy; the Secretary of the Air Force; the Secretary of the Treasury; Atomic Energy Commission; the Chairman, National Security Resources Board; or the Administrator of the National Aeronautics and Space Administration, may, in his absolute discretion and when deemed necessary in the interest of national security, suspend, without pay, any civilian officer or employee of the Department of State (including the Foreign Service of the United States), Department of Commerce, Department of Justice, Department of Defense, Department of the Army, Department of the Navy, Department of the Air Force, Coast Guard, Atomic Energy Commission, National Security Resources Board, or National Aeronautics and Space Administration, respectively, or of their several field services: *Provided*, That to the extent that such agency head determines that the interests of the national security permit, the employee concerned shall be notified of the reasons for his suspension and within thirty days after such notification any such person shall have an opportunity to submit any statements or affidavits to the official designated by the head of the agency concerned to show why he should be reinstated or restored to duty. The agency head concerned may, following such investigation and review as he deems necessary, terminate the employment of such suspended civilian officer or employee whenever he shall determine such termination necessary or advisable in the interest of the national security of the United States, and such determination by the agency head concerned shall be conclusive and final: *Provided further*, That any employee having a permanent or indefinite appointment, and having completed his probationary or trial period, who is a citizen of the United States whose employment is suspended under the authority of this Act, shall be given after his suspension and before his employment is terminated under the authority of this Act, (1) a written statement within thirty days after his suspension of the charges against him, which shall be subject to amendment within thirty days thereafter and which shall be stated as specifically as security considerations permit; (2) an opportunity within thirty days thereafter (plus an additional thirty days if the charges are amended) to answer such charges and to submit affidavits; (3) a hearing, at the employee's request, by a duly constituted agency authority for this purpose; (4) a review of his case by the agency head, or some official designated by him, before a decision adverse to the employee is made final; and (5) a written statement of the decision of the agency head:

Provided further, That any person whose employment is so suspended or terminated under the authority of this Act may, in the discretion of the agency head concerned, be reinstated or restored to duty [, and if so reinstated or restored shall be allowed compensation for all or any part of the period of such suspension or termination in an amount not to exceed the difference between the amount such person would normally have earned during the period of such suspension or termination, at the rate he was receiving on the date of suspension or termination, as appropriate, and the interim net earnings of such person] : *Provided further*, That the termination of employment herein provided shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government: *Provided further*, That the head of any department or agency considering the appointment of any person whose employment has been terminated under the provisions of this Act may make such appointment only after consultation with the Civil Service Commission, which agency shall have the authority at the written request of either the head of such agency or such employee to determine whether any such person is eligible for employment by any other agency or department of the Government.



89TH CONGRESS
1ST SESSION

H. R. 1647

[Report No. 32]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1965

Mr. BECKWORTH introduced the following bill; which was referred to the Committee on Post Office and Civil Service

FEBRUARY 9, 1965

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Back Pay Act of 1965".

4 SEC. 2. For the purposes of this Act—

5 (1) "agency" means—

6 (A) each executive department of the Govern-
7 ment of the United States;

8 (B) each agency or independent establish-
9 ment in the executive branch of such Government;

1 (C) each corporation owned or controlled by
2 such Government;

3 (D) the Administrative Office of the United
4 States Courts;

5 (E) the Library of Congress;

6 (F) the General Accounting Office;

7 (G) the Government Printing Office; and

8 (H) the municipal government of the District
9 of Columbia.

10 SEC. 3. Each civilian officer or employee of an agency
11 who, on the basis of an administrative determination or a
12 timely appeal, is found, on or after the date of enactment of
13 this Act, by appropriate authority under applicable law or
14 regulation to have undergone an unjustified or unwarranted
15 personnel action taken prior to, on, or after the date of
16 enactment of this Act, which has resulted in the withdrawal
17 or reduction of all or any part of the pay, allowances, or
18 differentials of such officer or employee—

19 (1) shall be entitled, upon correction of such per-
20 sonnel action, to receive for the period for which such
21 personnel action was in effect an amount commensurate
22 with the amount of all or any part of the pay, allow-
23 ances, or differentials, as applicable, which such officer
24 or employee normally would have earned during such
25 period if such personnel action had not occurred, less

any amounts earned by him through other employment during such period; and

(2) for all purposes, shall be held and considered to have rendered service for such agency during such period, except that such officer or employee shall not be credited, by reason of the enactment of this Act, leave in an amount which would cause any amount of leave to his credit to exceed any maximum amount of such leave authorized for such officer or employee by law or regulation.

SEC. 4. The United States Civil Service Commission shall prescribe regulations to carry out the provisions of this Act. Such regulations shall not be applicable with respect to the Tennessee Valley Authority and its officers and employees.

SEC. 5. There are hereby repealed—

(1) section 6 (b) of the Act of August 24, 1912, as amended (5 U.S.C. 652 (b)) ; and

(2) that part of the third proviso of the first section of the Act of August 26, 1950 (5 U.S.C. 22-1), which reads: “, and if so reinstated or restored shall be allowed compensation for all or any part of the period of such suspension or termination in an amount not to exceed the difference between the amount such person would normally have earned during the period

1 of such suspension or termination, at the rate he was
2 receiving on the date of suspension or termination, as
3 appropriate, and the interim net earnings of such
4 person”.

Union Calendar No. 22

89TH CONGRESS
1ST SESSION

H. R. 1647

[Report No. 32]

A BILL

To provide for the payment of certain amounts
and restoration of employment benefits to
certain Government officers and employees
improperly deprived thereof, and for other
purposes.

By Mr. BECKWORTH

JANUARY 6, 1965

Referred to the Committee on Post Office and Civil
Service

FEBRUARY 9, 1965

Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

Digest of CONGRESSIONAL PROCEEDINGS

OFFICE OF
BUDGET AND FINANCE

(For information only;
should not be quoted
or cited)

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE

Washington, D. C. 20250

Official Business Postage and fees paid

U. S. Department of Agriculture

Issued February 11, 1965

For actions of February 10, 1965

89th-1st; No. 27

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HIGHLIGHTS: Both Houses agreed to conference report on USDA supplemental appropriation bill. House committee voted to report Appalachia bill. Rep. Roncalio protested proposed closing of Cheyenne Horticultural Research Station. Sen. Sparkman reported progress to increase beef exports. Rep. Andrews introduced and discussed bill to allow planting of soybeans on diverted feed grain acreage.

HOUSE

1. **APPROPRIATIONS.** Both Houses agreed to the conference report on H. J. Res. 234, providing supplemental appropriations for this Department (pp. 2428-43, 2530-39). The bill had been reported earlier by the conferees (H. Rept. 36)(p. 2469). This bill will now be sent to the President. As passed the bill includes provisions as follows:

Precludes this Department from using funds prior to May 1, 1965, to formulate or administer a program to eliminate agricultural research stations or lines of research.

Forbids the use of Public Law 480 funds during fiscal year 1965 to finance the export under title I of any agricultural commodity to the United Arab Republic except when such exports are necessary to carry out the October 1962 sales agreement and if the President determines that the financing of such exports is in the national interest.

A Senate amendment which would have authorized the use of available funds of the Agricultural Research Service for the installation of temperature and humidity control equipment at the Metabolism and Radiation Laboratory, Fargo, N. Dak., was eliminated from the bill.

The bill provides the following amounts, which are the same as those provided by the House and Senate:

<u>Item</u>	<u>Conference Report</u>
Commodity Credit Corporation:	
Reimbursement for net realized losses	\$1,100,000,000
Public Law 480:	
Sale of surplus agricultural commodities for foreign currencies (Title I)	250,000,000
Long-term supply contracts (Title IV)	200,000,000
International Wheat Agreement	50,000,000
Total	<u>\$1,600,000,000</u>

2. BALANCE OF PAYMENTS. Both Houses received the President's message on balance of payments and the U. S. gold position (H. Doc. 83)(pp. 2419-22, 2500-04, 2423-5) in which he stated that American business, labor, agriculture, and Government must work together to maintain stable costs and prices and strengthen our trade position in the world, and that we will strive to eliminate such artificial barriers to U. S. exports as discriminatory freight rates on ocean traffic.

3. APPALACHIA. The Public Works Committee voted to report (but did not actually report) S. 3, to provide public works and economic redevelopment programs and the planning and coordination needed to assist in the development of the Appalachian region. p. D93

4. PERSONNEL. Passed without amendment the following:

~~H. R. 158, to amend the Civil Service Retirement Act so as to permit the recovery of amounts due the Government in the settlement of claims under the Act. p. 2426~~

~~H. R. 1535, to authorize the Civil Service Commission to establish a schedule or schedules of pay differentials for irregular or intermittent duty involving unusual physical hardship or hazard. p. 2426~~

H. R. 1647, to authorize the Civil Service Commission to provide for the payment of amounts and restoration of employment benefits to certain Federal employees found to have been improperly deprived of such benefits. pp. 2426-7

H. R. 1746, to define the term "child" for lumpsum purposes under the Civil Service Retirement Act so as to include an adopted child and a natural child, but not a stepchild. p. 2427

This is no solution at all to this threat to our gold and our money. The Congress and the Nation has a right to expect far more than this lack-and-a-promise treatment of wishful thinking.

The House passed the gold reserve bill yesterday, at least partly on the assurances by the Democratic leadership that the President and administration were prepared to take positive and effective steps to stop our unfavorable dollar balance of payments and demands on our dwindling gold supply.

This message today says little to reassure the Congress or the Nation.

Mr. MILLS. Mr. Speaker, I ask unanimous consent that all Members desiring to do so be permitted to extend their remarks on the President's message at this point.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

SPECIAL ALLOWANCES TO DEPENDENTS OF MEMBERS OF UNIFORMED SERVICES EVACUATED FROM DANGER AREAS

Mr. RIVERS of South Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3043) to amend title 37, United States Code, to authorize payment of special allowances to dependents of members of the uniformed services to offset expenses incident to their evacuation, and for other purposes, which was unanimously reported from the Committee on Armed Services, with an amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. ARENDS. Mr. Speaker, reserving the right to object, and I shall not object, I would like to state that on yesterday the chairman of the Committee on Armed Services called this proposal up for committee attention. I trust the gentleman, Chairman RIVERS, will fully explain his bill, as I know he will and is capable of doing, to the membership of the House, informing them the Committee on Armed Services did give unanimous approval to this legislation which is both vital and necessary and which should be acted upon expeditiously. I hope the Members of the House will follow the suggestion of the gentleman from South Carolina [Mr. RIVERS] for immediate adoption of this legislation as he proceeds to explain it to the membership of the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There being no objection, the Clerk read the bill, as follows:

H.R. 3043

A bill to amend title 37, United States Code, to authorize payment of special allowances to dependents of members of the uniformed services to offset expenses incident to their evacuation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chap-

ter 7 of title 37, United States Code, is amended as follows:

(1) The following new section is inserted after section 405:

"§ 405a. Travel and transportation allowances: evacuation allowances

"(a) Under regulations prescribed by the Secretaries concerned, when dependents of members of the uniformed services are ordered evacuated by competent authority, they may be authorized such allowances as the Secretary concerned determines necessary to offset the expenses incident to the evacuation. Allowances authorized by this section are in addition to those authorized by any other section of this title.

"(b) Under regulations prescribed by the Secretaries concerned, each member whose dependents are ordered evacuated by competent authority is entitled to have one motor vehicle owned by him and for his personal use, or the use of the dependents, transported at the expense of the United States to a designated place for the use of the dependents. When the dependents are permitted to rejoin the member, the vehicle may be transported at the expense of the United States to his permanent duty station."

(2) The analysis is amended by inserting the following new item:

"405a. Travel and transportation allowances: evacuation allowances."

(3) Section 407(a) is amended by inserting the words ", or whose dependents are ordered evacuated by competent authority" after the word "station".

(4) Section 407(b) is amended—

(A) by striking out the word "or" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting the word "; or" in place thereof; and

(C) by adding the following after clause (2);

"(3) the member's dependents are ordered evacuated by competent authority."

(5) Section 411(a) is amended by inserting the figure "405a," after the figure "405,".

(6) Section 1006 is amended—

(A) by adding the following sentence at the end of subsection (c): "The Secretary concerned or his designee may waive any right of recovery of not more than one month's basic pay advanced under this subsection if he finds that recovery of the advance would be against equity and good conscience or against the public interest."; and

(B) by adding at the end:

"(g) Under regulations prescribed by the Secretary concerned, the dislocation allowance authorized by section 407 for a member of a uniformed service whose dependents are ordered evacuated may be paid in advance of the evacuation of the dependents and to the dependents designated by the member."

With the following committee amendment:

On page 3, after line 25, insert the following new language:

"SEC. 2. This Act becomes effective on February 1, 1965."

Mr. RIVERS of South Carolina. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of this bill is to authorize the payment of per diem and dislocation allowances to the dependents of military personnel when such dependents are ordered evacuated from an overseas danger area to the United States. This situation currently applies in South Vietnam.

The reason for the bill is that last year when we had the Cyprus situation and earlier the Cuban situation, military de-

pendents were ordered stateside and there was no provision of law to give them dislocation allowances or a per diem to meet the unusual expenses resulting from such an unexpected order to evacuate an overseas area.

This bill will correct that statutory deficiency. Legislation to accomplish this purpose was originally requested by the Department of Defense in 1964. However, the committee did not have an opportunity to consider it during the last session.

The current situation in southeast Asia and South Vietnam accentuated the importance of this legislation and therefore this is the first bill acted upon by the Committee on Armed Services this year.

Under existing law, if a dependent is ordered evacuated from a danger area and moves to another part of the world other than the United States, the Secretary is authorized to pay such dependent a per diem allowance. However, if the dependents are ordered evacuated to the United States there is no similar provision covering this contingency despite the fact that such dependents would be, under these circumstances, confronted with unusual and extraordinary expenses.

It should be noted at this point that there is not a similar deficiency in the law as it applies to dependents of civilian employees of the Federal Government ordered evacuated under the same circumstances. The law in this regard does provide sufficient authority to meet the unusual expenses resulting from such an evacuation.

This bill therefore will correct this deficiency by authorizing the Secretary of the Service concerned to provide a per diem payment to dependents ordered evacuated to the United States.

In addition, this bill would authorize the Secretary discretionary authority to waive up to 1 month's basic pay previously advanced to these dependents as a loan under section 1006 of title 37.

Also, the legislation would authorize the payment of 1 month's dislocation allowance, which as you know, amounts to 1 month's payment of basic allowance for quarters.

Finally, the legislation would permit the Secretary to ship a private vehicle of the dependents and military member to the temporary residence in the United States selected at the time of the evacuation.

In summary, in my view and that unanimously shared by the Committee on Armed Services, this legislation will simply place the dependents of military personnel in approximately the same position as their contemporaries who are dependents of civilian employees of the Federal Government.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. RIVERS of South Carolina. I yield to the gentleman from Iowa.

Mr. GROSS. The gentleman mentioned Asia or southeast Asia, I do not remember which. Is this bill limited to personnel in Asia?

Mr. RIVERS of South Carolina. It takes in the whole world. However, this case in Asia points up the fact we did not

have a law whereby if a national or a dependent of a military man is ordered back home there is no provision to pay for his expenses. This bill accomplishes that.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GOVERNMENT COUNTERCLAIMS AGAINST AMOUNTS DUE FROM CIVIL SERVICE RETIREMENT AND DISABILITY FUND

Mr. MORRISON. Mr. Speaker, I call up the bill (H.R. 158) to amend the Civil Service Retirement Act to permit the recovery by the Government of amounts due the Government in the settlement of claims under such act, and for other purposes, and ask unanimous consent for its present consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There being no objection, the Clerk read the bill, as follows:

H.R. 158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15 of the Civil Service Retirement Act, as amended (5 U.S.C. 2265), is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of law, the Commission is authorized to take appropriate action on counterclaims filed by the Government as set off against amounts otherwise due and payable from the fund to the debtors concerned."

Mr. POOL. Mr. Speaker, H.R. 158 is reported unanimously from the Post Office and Civil Service Committee. It is identical to a bill of the 88th Congress, H.R. 5569, which also was reported unanimously and passed the House on the Consent Calendar. It was an official administration request.

This bill amends the Civil Service Retirement Act to provide specific legislative authority for setoffs to be made from annuity payments or from refunds that are made to former employees from the civil service retirement fund for the purpose of liquidating debts owed to the Government by the former employee.

It is recognized by judicial precedents that any amounts payable to a former employee of the Government may be applied in liquidation of an indebtedness of that former employee. While there is no specific provision in the Civil Service Retirement Act authorizing this procedure, it was followed quite regularly until 1956, when the Comptroller General held—on the basis of a court case—that the rule no longer should be applied in cases of the District of Columbia because the District of Columbia is a legal entity separate and distinct from the U.S. Government and, therefore, that the U.S. Government could not make setoffs requested by a separate legal entity, the municipal government of the District of Columbia.

This legislation will provide the specific legislative authority needed government-wide, including the municipal government of the District of Columbia.

There is no additional cost involved; in fact, the bill constitutes an authority for the Government to recover moneys owed to it by former employees.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HAZARDOUS DUTY PAY

Mr. MORRISON. Mr. Speaker, I call up the bill (H.R. 1535) to amend the Classification Act of 1949 to authorize the establishment of hazardous duty pay in certain cases, and ask unanimous consent for its present consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There being no objection, the Clerk read the bill, as follows:

H.R. 1535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title VIII of the Classification Act of 1949, as amended (5 U.S.C. 1131-1133), is amended by adding at the end thereof the following:

"Sec. 804. The Commission shall establish a schedule or schedules of pay differentials for irregular or intermittent duty involving unusual physical hardship or hazard. The appropriate differential shall be paid to any officer or employee to whom this Act applies for any period in which such officer or employee is subjected to physical hardship or hazard not usually involved in carrying out the duties of his position. Such pay differential—

"(1) shall not be applicable with respect to any officer or employee in any position the classification of which takes into account the degree of physical hardship or hazard involved in the performance of the duties thereof;

"(2) shall not exceed an amount equal to 25 per centum of the rate of basic compensation applicable with respect to such officer or employee; and

"(3) shall be paid under regulations which shall be prescribed by the Commission."

SEC. 2. The amendment made by the first section of this Act shall become effective on the first day of the first pay period which begins more than one hundred and eighty days after the date of enactment of this Act.

Mr. DANIELS. Mr. Speaker, H.R. 1535 is reported unanimously by the Post Office and Civil Service Committee. It is identical to two bills—H.R. 2079 of the 87th Congress and H.R. 1159 of the 88th Congress—which received the unanimous approval of our committee and the House. It has the full approval of the Civil Service Commission and the Bureau of the Budget and its enactment is strongly urged by the administration.

The purpose of H.R. 1535 is to correct an inequity and to close a gap in existing law which discriminates against employees covered by the Classification Act with regard to hazardous duty pay. The bill authorizes the Civil Service Commission to establish pay differentials for Classification Act employees, similar to that now payable to certain other categories of Federal employees, for work performed under physical hardship or

hazards not regularly involved in or required for the performance of the duties of the positions.

The bill limits the payment of hazardous duty compensation so that, first, it shall not be paid when the physical hardship or hazard was taken into account in classifying the employee's position; second, it shall be paid only for the actual period of time the employee is subject to the physical hardship or hazard; and third, the amount of pay shall not exceed 25 percent of the employee's basic compensation.

The Civil Service Commission has estimated that the cost of this legislation will be less than \$100,000 annually.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BACK PAY ACT OF 1965

Mr. MORRISON. Mr. Speaker, I call up the bill (H.R. 1647) to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes, and ask unanimous consent for its present consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Back Pay Act of 1965".

SEC. 2. For the purposes of this Act—

(1) "agency" means—

(A) each executive department of the Government of the United States;

(B) each agency or independent establishment in the executive branch of such Government;

(C) each corporation owned or controlled by such Government;

(D) the Administrative Office of the United States Courts;

(E) the Library of Congress;

(F) the General Accounting Office;

(G) the Government Printing Office; and

(H) the municipal government of the District of Columbia.

SEC. 3. Each civilian officer or employee of an agency who, on the basis of an administrative determination or a timely appeal, is found, on or after the date of enactment of this Act, by appropriate authority under applicable law or regulation to have undergone an unjustified or unwarranted personnel action taken prior to, on, or after the date of enactment of this Act, which has resulted in the withdrawal or reduction of all or any part of the pay, allowances, or differentials of such officer or employee—

(1) shall be entitled, upon correction of such personnel action, to receive for the period for which such personnel action was in effect an amount commensurate with the amount of all or any part of the pay, allowances, or differentials, as applicable, which such officer or employee normally would have earned during such period if such personnel action had not occurred, less any amounts earned by him through other employment during such period; and

(2) for all purposes, shall be held and considered to have rendered service for such agency during such period, except that such officer or employee shall not be credited, by reason of the enactment of this Act, leave in

an amount which would cause any amount of leave to his credit to exceed any maximum amount of such leave authorized for such officer or employee by law or regulation.

SEC. 4. The United States Civil Service Commission shall prescribe regulations to carry out the provisions of this Act. Such regulations shall not be applicable with respect to the Tennessee Valley Authority and its officers and employees.

SEC. 5. There are hereby repealed—

(1) section 6(b) of the Act of August 24, 1912, as amended (5 U.S.C. 652(b)); and

(2) that part of the third proviso of the first section of the Act of August 26, 1950 (5 U.S.C. 22-1), which reads: “, and if so reinstated or restored shall be allowed compensation for all or any part of the period of such suspension or termination in an amount not to exceed the difference between the amount such person would normally have earned during the period of such suspension or termination, at the rate he was receiving on the date of suspension or termination, as appropriate, and the interim net earnings of such person”.

Mr. BECKWORTH. Mr. Speaker, H.R. 1647 is identical to H.R. 11753 of the 87th Congress and H.R. 4837 of the 88th Congress, both of which also received the unanimous approval of the Post Office and Civil Service Committee and the House. The legislation is an official administration request of the Civil Service Commission; it is considered a major legislative goal and it is the result of consultations with employee groups and agencies over a period of years.

H.R. 1647 will extend to all Federal employees on a more uniform and equitable basis the existing provisions of law that provide for restoring pay and other benefits to an employee which he may have lost because of an unjustified or unwarranted personnel action that was later corrected by appropriate authority. The bill is basically perfecting legislation. It takes the best elements of existing laws on the subject and consolidates them into one logical, equitable, and comprehensive authority to be applied after an erroneous or unwarranted personnel action is corrected. It does not create any new rights of tenure, review, or appeal for any employee. It requires only that when an employee is involved in an improper personnel action which is later corrected by appropriate authority, the employee be made “whole” financially for pay and other benefits which he may have lost.

A precise statement of the costs of this bill cannot be made without an extensive and costly Government-wide survey. However, no great number of new cases are expected since most adverse personnel actions involving backpay are already covered in some way by existing authorities. Whatever additional expenditures that might result, if any, do not really represent costs as such but represent pay and employment benefits that have been unjustly taken away from an employee and which equity requires be paid back to him as part of the corrective action taken in his case. The Civil Service Commission has already testified that a possible overall savings to the Government could result because the moneys expended as a result of private bills that are considered in every Congress in adverse personnel cases more

than offset any increased expenditures that might arise under this legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DEFINITION OF THE TERM “CHILD” UNDER RETIREMENT ACT

Mr. MORRISON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 1746) to define the term “child” for lump-sum payment purposes under the Civil Service Retirement Act.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the bill, as follows:

H.R. 1746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1(j) of the Civil Service Retirement Act (5 U.S.C. 2251(j)) is amended by adding at the end thereof the following sentence: “The term ‘child’, for purposes of section 11, shall include an adopted child and a natural child, but shall not include a stepchild”.

SEC. 2. The provisions under the heading “Civil Service Retirement and Disability Fund” in title I of the Independent Offices Appropriation Act, 1959 (72 Stat. 1064; Public Law 85-844), shall not apply with respect to benefits resulting from the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, H.R. 1746 is reported unanimously from the Post Office and Civil Service Committee. It is identical to H.R. 3612 of the 88th Congress which also received the unanimous approval of our committee and the House. It is based on an official administration request.

The legislation will relieve a problem the Civil Service Commission has encountered in administering the provisions of the Civil Service Retirement Act dealing with the payment of lump-sum benefits.

In general, the Commission has followed the practice when lump-sum payments are made to the heirs of a decedent, of including all natural children, whether legitimate or not. However, this practice is frequently challenged in some States where illegitimate children are not entitled to inherit even from a natural parent.

This legislation is necessary in order to have uniformity and consistency and in order to avoid misunderstandings, appeals, and litigation. The bill defines a “child,” for the purpose of lump-sum payments, as including an adopted child and a natural child but not including a stepchild. The stepchild is excluded because a stepchild, under most State laws, is not an heir or next of kin, and does not inherit from a stepparent except under the specific terms of a will.

No costs are involved in the legislation—in fact, there will be administra-

tive savings in connection with the adjudication of claims and the elimination of litigation.

ADMINISTRATIVE EXPENSES OF RETIRED EMPLOYEES HEALTH BENEFITS

Mr. MORRISON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 1782) to amend the Retired Federal Employees Health Benefits Act with respect to Government contribution for expenses incurred in the administration of such act.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the bill, as follows:

H.R. 1782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 4(b) and 6(c) of the Retired Federal Employees Health Benefits Act (74 Stat. 850 and 851; 5 U.S.C. 3053(b) and 3055(c)) are hereby repealed.

SEC. 2. Section 8(a) of such Act (74 Stat. 851; 5 U.S.C. 3057(a)) is amended by adding at the end thereof the following sentence: “In addition, the Government shall contribute annually and there shall be deposited in the Fund amounts for payment of expenses incurred by the Commission in administering this Act.”

SEC. 3. Section 8(b) of such Act (74 Stat. 851; 5 U.S.C. 3057(b)) is amended to read as follows:

“(b) The Fund shall be available without fiscal year limitation for all payments on account of the health benefits plan negotiated under section 3 of this Act, for payment of the Government's contribution provided for by section 6(a) of this Act to agencies of the Government which administer a retirement system for civilian employees of the Government, and for payment of expenses within such limitations as may be specified annually in appropriation acts, incurred by the Commission in administering this Act.”

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. HENDERSON. Mr. Speaker, H.R. 1782 is reported unanimously from the Post Office and Civil Service Committee. It is identical to an official administration request of the Civil Service Commission in the last Congress, H.R. 3517, which was unanimously reported from our committee and passed the House without opposition. It is based on an official administration request.

This legislation will relieve a budgetary problem of the Civil Service Commission under the Retired Federal Employees Health Benefits Act by eliminating the arbitrary 2-percent limitation of the Government's contribution for administrative expenses and providing, instead, that a limitation on administrative expenses be fixed annually in the appropriation acts.

The fixed 2-percent limitation on administrative expenses has proved to be too restrictive because, first, total annuitant participation in the program is only 60 percent whereas when the program was established it was anticipated

there would be at least 95-percent participation; second, communicating with thousands of elderly people on a subject which is new and complicated to most of them has proved more costly than anticipated; and third, the program involves a closed group which can only decrease with the passage of time and, as a result, the Government's contribution will continue to decline. Temporary budgetary relief is now being provided by appropriation acts only with the understanding that permanent relief would be granted by substantive legislation.

No additional expenditure of funds is involved in this legislation.

CLARIFYING CERTAIN CIVIL SERVICE RETIREMENT PROVISIONS

Mr. MORRISON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 2594) to clarify the application of certain annuity increase legislation.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of section 1(a) of the Act of June 25, 1958 (Public Law 85-465), and section 1101(a) of the Act of October 11, 1962 (Public Law 87-793), the words "entitled to receive an annuity" shall, from and after the respective effective dates (August 1, 1958, and January 1, 1963), of the annuity increases provided by such Acts, not include any person whose annuity commencing date occurs after the effective date of the annuity increase involved.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. HENDERSON. Mr. Speaker, H.R. 2594 is reported unanimously from the Post Office and Civil Service Committee. It is identical to H.R. 8373 of the 88th Congress which received the unanimous approval of our committee and the House, based on an official administration request of the Civil Service Commission.

Enactment of this legislation is urgently needed in order to close a loophole in the Civil Service Retirement Act which, if unchanged, will leave the way open to the draining off of \$65 million in benefits which the Congress never intended.

The bill reaffirms the original intention of the Congress as to the meaning of the words "entitled to receive an annuity" which were in the annuity increase laws enacted by the Congress in 1958 and in 1962. That intention is that the increases provided in annuities should go only to annuitants on the rolls at the time. The phrase, "entitled to receive an annuity," was added only to protect those who actually had a vested right to an annuity at the time but had not yet received a first check. The phrase most definitely did not intend, as a recent court of claims decision has held, that the annuity increases would

eventually go to persons who left Government service with entitlement to a deferred annuity at some date in the distant future.

The civil service retirement fund is already heavily overburdened and enactment of this legislation is urgently needed to prevent an unwarranted raid upon it.

EXTENSION OF REMARKS

Mr. MORRISON. Mr. Speaker, I ask unanimous consent that the statements of Mr. BECKWORTH, Mr. POOL, Mr. UDALL, Mr. DANIELS, and Mr. HENDERSON be inserted in the RECORD following the passage of whichever of the bills just passed to which their remarks may apply.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

CALL OF THE HOUSE

Mr. FUQUA. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 14]

Abbitt	Dickinson	Mackie
Abernethy	Diggs	Martin, Mass.
Adair	Evins, Tenn.	Martin, Nebr.
Anderson, Ill.	Findley	Mathias
Ashbrook	Fulton, Pa.	Morton
Ashley	Gialmo	Murray
Ayres	Gibbons	Pelly
Baring	Goodell	Rinie
Bates	Green, Oreg.	Powell
Battin	Griffin	Pudinski
Bell	Hagan, Ga.	Purdell
Betts	Hall	Quie
Bolling	Hansen, Idaho	Quillen
Bow	Hardy	Rogers, Tex.
Bray	Harvey, Ind.	Ronan
Brock	Harvey, Mich.	Roosevelt
Broomfield	Hébert	Roudebush
Burton, Utah	Herlong	Scheuer
Cahill	Hicks	Schneebeli
Callaway	Hollifield	Scott
Chamberlain	Holland	Shipley
Clancy	Hull	Smith, Calif.
Clawson, Del.	Hungate	Stalbaum
Collier	Ichord	Sweeney
Corbett	Johnson, Pa.	Thompson, N.J.
Corman	King, Calif.	Thomson, Wis.
Cunningham	King, N.Y.	Toll
Curtis	Laird	Walker, Miss.
Dague	Lindsay	Watkins
Davis, Wis.	Long, La.	Widnall
Dawson	McClory	Williams
Denton	McDowell	Wilson, Bob
Devine	McMillan	

The SPEAKER. On this rollcall 336 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF AGRICULTURE

Mr. MAHON submitted the following conference report and statement on the bill (H.J. Res. 234) making supplemental appropriations for the fiscal year ending June 30, 1965, for certain activities of

the Department of Agriculture, and for other purposes:

CONFERENCE REPORT (REPT. No. 36)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 234) "making supplemental appropriations for the fiscal year ending June 30, 1965, for certain activities of the Department of Agriculture, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: That the Senate recede from its amendment numbered 2.

The committee of conference report in disagreement amendments numbered 1, 3, and 4.

GEORGE MAHON,
ALBERT THOMAS,
WILLIAM H. NATCHER,
ROBERT H. MICHEL,
Managers on the Part of the House.

SPESSARD L. HOLLAND,
CARL HAYDEN,
ALLEN J. ELLENDER,
LISTER HILL,
JOHN O. PASTORE,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 234) making supplemental appropriations for the fiscal year ending June 30, 1965, for certain activities of the Department of Agriculture, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to each of such amendments, namely:

DEPARTMENT OF AGRICULTURE Commodity Credit Corporation

Amendment No. 1—Reimbursement for net realized losses: Reported in technical disagreement. The managers on the part of the House will offer a motion to agree to the Senate language prohibiting the closing of research stations and activities, amended to limit such prohibition to May 1, 1965.

Amendment No. 2—Reimbursement for net realized losses: Eliminates language proposed by the Senate earmarking funds for installation of equipment at the Metabolism and Radiation Laboratory, Fargo, North Dakota.

Amendment No. 3—Public Law 480: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment relating to sales of agricultural commodities to the United Arab Republic.

It is expected that the President will keep Congress currently advised of any actions taken in this connection.

Amendment No. 4—Veterans' Administration: Reported in technical disagreement. The managers on the part of the House will offer a motion to agree to the Senate language prohibiting the closing and relocating of certain Veterans' Administration hospitals, facilities, and services, amended to limit such prohibition to May 1, 1965.

GEORGE MAHON,
ALBERT THOMAS,
WILLIAM H. NATCHER,
ROBERT H. MICHEL,
Managers on the Part of the House.

Mr. MAHON. Mr. Speaker, I call up the conference report on the bill (H.J. Res. 234) making supplemental appropriations for the fiscal year ending June 30, 1965, for certain activities of the Department of Agriculture, and for other purposes, and ask unanimous consent

89TH CONGRESS
1ST SESSION

H. R. 1647

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 1965

Read twice and referred to the Committee on Post Office and Civil Service

AN ACT

To provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Back Pay Act of 1965".

4 SEC. 2. For the purposes of this Act—

5 (1) "agency" means—

6 (A) each executive department of the Govern-
7 ment of the United States;

8 (B) each agency or independent establish-
9 ment in the executive branch of such Government;

1 (C) each corporation owned or controlled by
2 such Government;

3 (D) the Administrative Office of the United
4 States Courts;

5 (E) the Library of Congress;

6 (F) the General Accounting Office;

7 (G) the Government Printing Office; and

8 (H) the municipal government of the District
9 of Columbia.

10 SEC. 3. Each civilian officer or employee of an agency
11 who, on the basis of an administrative determination or a
12 timely appeal, is found, on or after the date of enactment of
13 this Act, by appropriate authority under applicable law or
14 regulation to have undergone an unjustified or unwarranted
15 personnel action taken prior to, on, or after the date of
16 enactment of this Act, which has resulted in the withdrawal
17 or reduction of all or any part of the pay, allowances, or
18 differentials of such officer or employee—

19 (1) shall be entitled, upon correction of such per-
20 sonnel action, to receive for the period for which such
21 personnel action was in effect an amount commensurate
22 with the amount of all or any part of the pay, allow-
23 ances, or differentials, as applicable, which such officer
24 or employee normally would have earned during such
25 period if such personnel action had not occurred, less

1 any amounts earned by him through other employment
2 during such period; and

3 (2) for all purposes, shall be held and considered
4 to have rendered service for such agency during such
5 period, except that such officer or employee shall not be
6 credited, by reason of the enactment of this Act, leave
7 in an amount which would cause any amount of leave to
8 his credit to exceed any maximum amount of such leave
9 authorized for such officer or employee by law or regu-
10 lation.

11 SEC. 4. The United States Civil Service Commission
12 shall prescribe regulations to carry out the provisions of this
13 Act. Such regulations shall not be applicable with respect
14 to the Tennessee Valley Authority and its officers and
15 employees.

16 SEC. 5. There are hereby repealed—

17 (1) section 6 (b) of the Act of August 24, 1912,
18 as amended (5 U.S.C. 652 (b)) ; and

19 (2) that part of the third proviso of the first section
20 of the Act of August 26, 1950 (5 U.S.C. 22-1),
21 which reads: “, and if so reinstated or restored shall
22 be allowed compensation for all or any part of the
23 period of such suspension or termination in an amount
24 not to exceed the difference between the amount such
25 person would normally have earned during the period

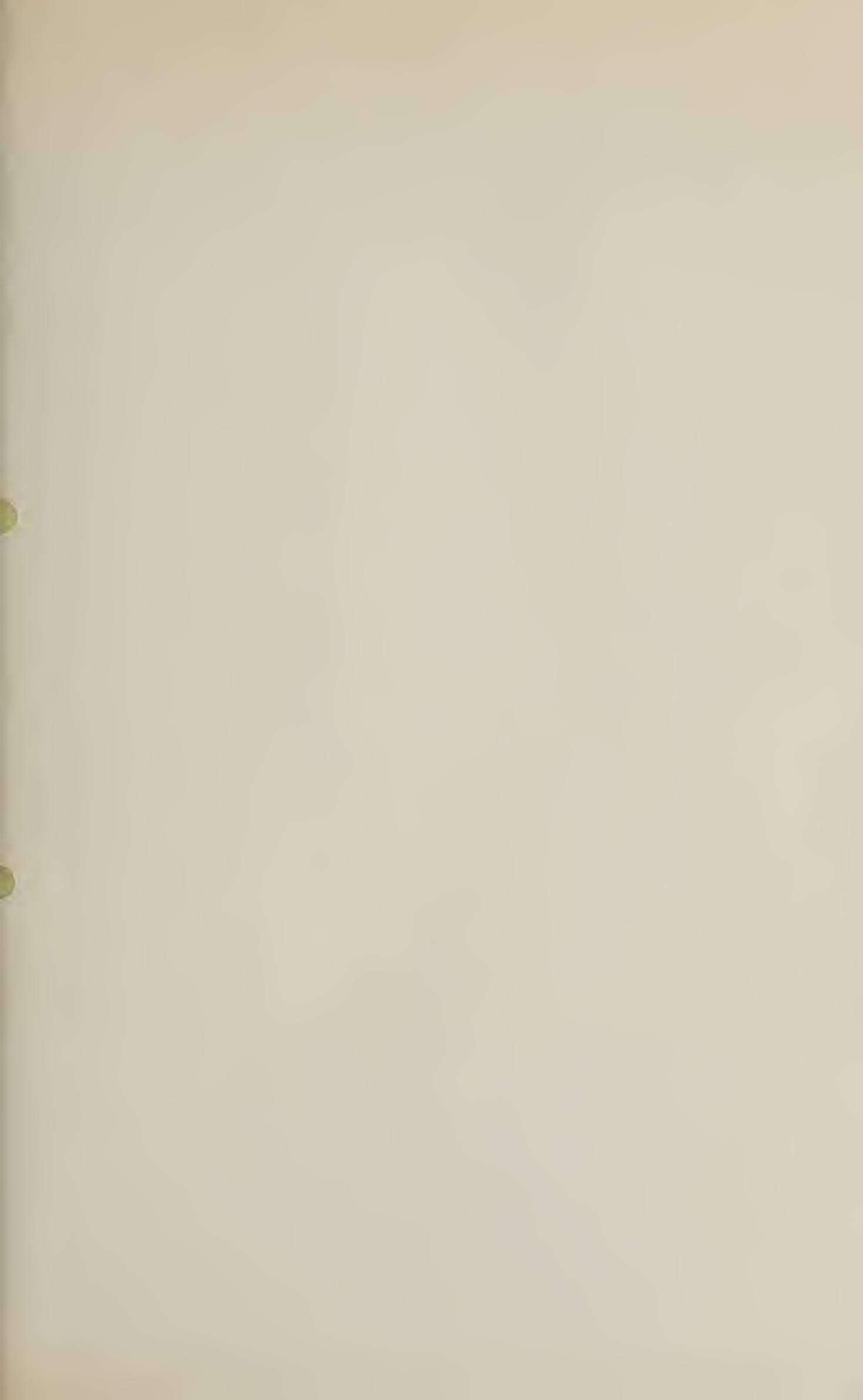
1 of such suspension or termination, at the rate he was
2 receiving on the date of suspension or termination, as
3 appropriate, and the interim net earnings of such
4 person”.

Passed the House of Representatives February 10, 1965.

Attest:

RALPH R. ROBERTS,

Clerk.



AN ACT

To provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes.

FEBRUARY 11, 1965

Read twice and referred to the Committee on Post
Office and Civil Service

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
TO BE QUOTED OR CITED)

Issued March 10, 1966
For actions of March 9, 1966
89th-2nd; No. 42

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HIGHLIGHTS: Senate passed tax bill with provision re USDA statements on payments to farmers. Sens. Proxmire and Pell criticized school milk budget cut. Sen. Bass commended proposed community development districts proposal. Rep. May criticized "recent sugar quota actions." Rep. Nelson criticized administration's "corn dumping."

SENATE

1. TAXATION. Passed, 79 to 9, with amendments H. R. 12752, the proposed Tax Adjustment Act of 1966, which includes a provision for the graduated withholding of income tax from wages, and a requirement that this Department, in the case of payments made under programs it administers, supply farmers with copies of any statements which under present law it must send to the Internal Revenue Service (pp. 5219-43, 5247-63). Conferees were appointed (p. 5263). House conferees have not yet been appointed.

2. FOREIGN AID. The Foreign Relations Committee reported without amendment H. R. 12169, to authorize supplemental appropriations for the foreign aid program (S. Rept. 1060) (p. 5180). This bill was made the unfinished business (pp. 5263-4).
3. PERSONNEL. The Post Office and Civil Service Committee voted to report (but did not actually report) H. R. 432, to amend the Federal Employees Group Life Insurance Act and the Civil Service Retirement Act with regard to designation of beneficiaries; H. R. 969, to authorize redetermination under the Civil Service Retirement Act of annuities to certain reemployed annuitants; H. R. 1647, to authorize payment of back pay and restoration of employment benefits to certain employees who were improperly deprived thereof by unwarranted personnel actions; H. R. 1746, with amendment, to define "child" under the Civil Service Retirement Act to include adopted child but not stepchild for lump-sum benefits; and H. R. 6926, with amendment, to strengthen the financial condition of the Federal employees' insurance fund by authorizing Federal contributions thereto. p. D184
4. CRIME, CIVIL SERVICE. Both Houses received the President's message on crime in which he stated he was directing the Chairman of the Civil Service Commission to reexamine the policies of all Federal departments and agencies regarding the hiring of released "good risk" offenders (H. Doc. 407); to Judiciary Committees. pp. 5146-9, 5174-7
5. POVERTY PROGRAM. Received from the Office of Economic Opportunity a proposed bill "to provide for continued progress in the Nation's war on poverty"; to Labor and Public Welfare Committee. p. 5179
6. SCHOOL MILK; CHILD NUTRITION. Sens. Proxmire and Pell criticized the school milk budget cut and the proposed child nutrition program. pp. 5196-7, 5201
7. COMMUNITY DEVELOPMENT DISTRICTS. Sen. Bass commended the President's community development districts proposal to aid in the economic development of rural areas and inserted editorials commending the proposal. pp. 5201-2
8. SOIL AND WATER CONSERVATION. Sen. Long, Mo., commended the action of the Mo. State Soil and Water Districts Commission in authorizing three new soil and water conservation districts in the State. pp. 5197-8
9. COMMODITY RESERVES. Sens. Hartke, McCarthy, Moss, and Nelson were added as co-sponsors of S. 2995, to authorize the President to establish and maintain reserve stocks of agricultural commodities for national security. p. 5188
10. EDUCATION. Sens. Dominick and Tower protested the budget cut in Federal aid to schools in federally impacted areas. pp. 5188-9, 5205-6

HOUSE

11. SUGAR. Rep. May inserted a letter from her and 25 other Representatives to Secretary Freeman in "strong protest against recent sugar quota actions" taken by the Department in its administration of the Sugar Act. pp. 5150-56
12. CORN. Rep. Nelsen criticized the CCC corn "dumping" and inserted a letter from a Minn. farmers' co-op elevator and mill stating that it "is discriminating

Committee Meetings

(Committees not listed did not meet)

RURAL POVERTY PROGRAM

Committee on Agriculture and Forestry: Committee began hearings on S. 2934, to provide Federal grants for comprehensive planning for urban community development, having as its witnesses Victor Fischer, Office of Metropolitan Development, Department of Housing and Urban Development; Walter A. Hasty, Jr., National Farmers Union; and William B. Saunders of William B. Saunders & Co., Washington, D.C.

Hearings continue tomorrow.

APPROPRIATIONS—AGRICULTURE

Committee on Appropriations: Continuing its hearings on fiscal 1967 budget estimates for the Department of Agriculture, and related agencies, subcommittee received testimony from John A. Baker and George L. Mehren, Assistant Secretaries; Foster E. Mohrhardt, Director, National Agricultural Library; Robert G. Lewis, Administrator, Rural Community Development Service; Nathan M. Koffsky, Director of Agricultural Economics; Harry C. Trelogan, Administrator, Statistical Reporting Service; Joseph G. Knapp, Administrator, Farmers Cooperative Service; Alex C. Caldwell, Administrator, Commodity Exchange Authority; Lester P. Condon, Inspector General; and Charles R. Grant, Budget Officer, all of the USDA.

Hearings continue tomorrow.

APPROPRIATIONS—INTERIOR

Committee on Appropriations: Subcommittee continued its hearings on fiscal 1967 budget estimates for the Department of the Interior, and related agencies, receiving testimony in behalf of funds for their respective agencies from Dr. S. Dillon Ripley, Secretary, Smithsonian Institution; and John Walker, Director, National Gallery of Art.

Hearings continue tomorrow.

APPROPRIATIONS—PUBLIC WORKS

Committee on Appropriations: Subcommittee began hearings on fiscal 1967 budget estimates for civil functions, receiving an opening statement on proposed funds for his department from Lt. Gen. William F. Cassidy, Chief of Army Engineers.

Hearings continue tomorrow on funds for projects in the North Pacific and Pacific Ocean divisions.

MILITARY PROCUREMENT

Committee on Armed Services: Committee continued executive hearings jointly with the Defense Subcommittee of the Committee on Appropriations on proposed fiscal 1967 authorizations (S. 2950) and appropriations for military procurement, having as its witnesses Stan-

ley R. Resor, Secretary of the Army; and Gen. Harold K. Johnson, Chief of Staff, Army.

Hearings continue tomorrow with testimony from other Army officials.

AMMUNITION AND AIR MUNITIONS

Committee on Armed Services: The Preparedness Investigating Subcommittee met in executive session to receive further testimony on the status of ammunition and air munitions from Maj. Gen. F. J. Chesarek, Assistant Deputy Chief of Staff for Logistics, Army.

Hearings were recessed subject to call.

D.C. REVENUE

Committee on the District of Columbia: Committee concluded its current series of hearings on proposed amendments to H.R. 11487, proposed D.C. Revenue Act, after receiving testimony from Col. William Press, Metropolitan Washington Board of Trade; Myer Gelfand, the Macke Co.; John R. Immer, D.C. Federation of Citizens Associations; Mrs. Anthony Schwartz, League of Women Voters of D.C.; Dr. Ellis Haworth, D.C. Congress of Parents and Teachers; and Mrs. Eleanor Smoller, D.C. Citizens for Better Public Education.

It was announced that the record would remain open until Thursday, March 17, for the inclusion of additional written material.

POPULATION CONTROL

Committee on Government Operations: Subcommittee on Foreign Aid Expenditures resumed its hearings on S. 1676, proposing certain reorganizations within the Departments of State and HEW relating to population control problems, having as its witnesses Ernst Michanek and Dr. Ulf Borell, who were accompanied by Carl Wahren, all of the Swedish International Development Authority.

Subcommittee recessed subject to call.

CONSTITUTIONALITY OF GRANTS

Committee on the Judiciary: The Constitutional Rights Subcommittee continued hearings on S. 2097, to provide for judicial review of the constitutionality of grants or loans under certain acts, having as its witnesses Assistant Attorney General John Douglas; Samuel D. Proctor, Special Assistant to the Director, and Donald M. Baker, General Counsel, both of the Office of Economic Opportunity; Dr. W. Astor Kirk, Methodist Board of Christian Social Concerns, Washington, D.C.; and John Adams, Americans United for Separation of Church and State, Washington, D.C.

Hearings continue tomorrow.

ELECTORAL COLLEGE

Committee on the Judiciary: Subcommittee on Constitutional Amendments continued its hearings on S.J. Res. 58, and other joint resolutions proposing amendment to

the Constitution relating to the election of the President and Vice President, having as its witnesses Senators Kennedy of New York and Dodd, the latter of whom submitted a statement; and Donald H. Scott, American Cyanamid Co., Lucius Wilmerding, Jr., of Princeton, N.J., author of "The Electoral College," and Edgar O. Bottler, Columbia Gas System Service Corp., all representing the U.S. Chamber of Commerce.

Hearings continue tomorrow.

VETERANS

Committee on Labor and Public Welfare: Subcommittee on Veterans' Affairs unanimously approved for full committee consideration S. 562, to redefine the term "Veterans' Administration facilities," to include private facilities in certain cases; S. 1199, making automobiles available to certain disabled veterans not previously entitled to such benefits (amended); and H.R. 11748, authorizing prepayment of certain travel expenses of veterans to or from a VA facility in connection with vocational rehabilitation or medical care.

COMMITTEE BUSINESS

Committee on Post Office and Civil Service: Committee, in executive session, ordered favorably reported the following bills: ~~H.R. 432, to amend the Federal Employees Group Life Insurance Act and the Civil Service Retirement Act with regard to designation of beneficiaries; H.R. 969, authorizing redetermination under Civil Service Retirement Act of annuities to certain reemployed annuitants; H.R. 1647, authorizing payment of back pay and restoration of employment benefits to certain Government employees who were improperly deprived~~

~~thereof by unwarranted personnel action; H.R. 1746, to define "child" under the Civil Service Retirement Act to include adopted child but not stepchild for lump-sum benefits (amended); H.R. 6926, strengthening financial condition of the Federal employees' insurance fund by authorizing Federal contributions thereto (amended); H.R. 8030, providing for the discontinuance of the Postal Savings System; and H.R. 10553, preserving the retirement, group life, and health benefits for Congressional employees receiving fellowships from the American Political Science Association; and S. 2573, validating the action of the Superintendent of Yosemite National Park in extending the 1955 leave year for employees engaged in storm and flood work.~~

Committee also approved 207 postmaster nominations.

BOARDS OF CONTRACT APPEALS

Select Committee on Small Business: Subcommittee on Government Procurement concluded its hearings in connection with its study of the operation and effectiveness of Boards of Contract Appeals that function in the various Federal agencies for the adjudication of contract disputes, after receiving testimony from J. Edward Welch, Deputy General Counsel, GAO; Gilbert A. Cuneo, partner in the firm of Connor, Sellers & Cuneo; Geoffrey Creyke, Jr., partner in the firm of Hudson & Creyke, Washington, D.C.; Franklin Schultz, partner in the firm of Purcell & Nelson, Washington, D.C.; E. Trowbridge von Baur, partner in the firm of von Baur, Baresford & Coburn; John W. Whelan, Georgetown University Law Center; and Clifford E. Warren, chairman, Small Business Committee, Western States Democratic Conference.

House of Representatives

Chamber Action

Bills Introduced: 41 public bills, H.R. 13417-13457; 6 private bills, H.R. 13458-13463; and 3 resolutions, H.J. Res. 886 and 887, and H. Res. 756, were introduced.

Pages 5172-5173

Bill Reported: One report was filed as follows: Disposition of Executive Papers (H. Rept. 1311). Page 5712

Aircraft-Missiles-Naval Vessels: The House disagreed to Senate amendments to H.R. 12889, to authorize appropriations during the fiscal year 1966 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, research, development, test, evaluation, and military construction for the Armed Forces; agreed to a conference with the Senate; and appointed as conferees Representatives Rivers of South Carolina, Philbin, and Bates.

Page 5135

D.C. Crime: The Speaker announced that Representative Hagan of Georgia had replaced Representative

Dowdy as a conferee on H.R. 5688, relating to crime and criminal procedure in the District of Columbia.

Page 5136

Presidential Message—U.S. Crime: The House received a message from the White House on crime and law enforcement in the United States—referred to the Committee on the Judiciary and ordered printed as a House document (H. Doc. 407).

Pages 5146-5149

Program for Thursday: Adjourned at 1:20 p.m. until Thursday, March 10, 1966, at 12 o'clock noon.

Committee Meetings

WAR ON HUNGER

Committee on Agriculture: Continued hearings on the world population explosion and war on hunger program. Testimony was heard from Representative Langen; Clifford R. Hope, former chairman, House Committee on Agriculture; and public witnesses.

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

Issued March 11, 1966
For actions of March 10, 1966
89th-2nd; No. 43

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HIGHLIGHTS: Sen. Proxmire criticized proposed child nutrition program. Rep. Fino inserted article critical of community development proposals.

SENATE

1. FOREIGN AID. By a vote of 82 to 2, passed with an amendment H. R. 12169, to authorize supplemental appropriations for the foreign aid program in Vietnam, Laos, Thailand, and the Dominican Republic. pp. 5311-22, 5325-33
2. PERSONNEL. The Post Office and Civil Service Committee reported H. R. 1647, with amendment, to provide for the payment of certain amounts and restoration of employment benefits to certain Federal employees improperly deprived thereof (S. Rept. 1062), and H. R. 432, without amendment, to amend the Federal

Employees' Group Life Insurance Act of 1954 and the Civil Service Retirement Act so as to provide for assurance of a valid acquittance to the insurer or the Government upon payment to a claimant properly entitled under such acts (S. Rept. 1064). p. 5266

3. MANPOWER. Received from the President his annual manpower report and the report of the Secretary of Labor on manpower requirements, resources, use and training; to Labor and Public Welfare Committee. pp. 5333-4
4. SCHOOL MILK; CHILD NUTRITION. Sen. Proxmire criticized the proposed child nutrition program and objected "to withdrawing all Federal support for school milk purchases unless the child can prove he or she is needy enough to get free milk." pp. 5269-70
Sen. Ribicoff was added as a cosponsor of S. 2921, to provide a special milk program for children. p. 5269
5. TRANSPORTATION. Sen. McClellan announced that hearings will begin Mar. 29 on the proposal to establish a Department of Transportation. p. 5269
6. FOREIGN TRADE. Sen. Brewster reviewed the meeting he recently attended as a congressional advisor to the American delegation to the meeting at the GATT Trade Center in Geneva to consider ways and means of promoting increased trade with underdeveloped nations. pp. 5288-9
7. ALASKA CENTENNIAL. Agreed to a unanimous-consent agreement by Sen. Mansfield that when S. 2614, to provide for U. S. participation in the statewide exposition to be held in Alaska during 1967, is considered next Mon. debate on any motions to the bill be limited to 30 minutes. p. 5334
8. ADJOURNED until Mon., Mar. 14. pp. 5337-8

HOUSE

9. DAYLIGHT TIME. The Interstate and Foreign Commerce Committee reported with amendments H. R. 6785, to establish uniform dates throughout the U. S. for the commencing and ending of daylight saving time in those States and local jurisdictions where it is observed (H. Rept. 1315). p. 5343
10. TAXATION. Conferees were appointed on H. R. 12752, the proposed Tax Adjustment Act of 1966 (p. 5340). The "Daily Digest" states that the conferees agreed to file a conference report on this bill on Mon., Mar. 14. (p. D193).
11. ECONOMIC REPORT. The "Daily Digest" states that the Joint Economic Committee "approved its report on the President's Economic Report." p. D193
12. LEGISLATIVE PROGRAM. Rep. Albert announced that on Tues., Mar. 15, the House will consider H. R. 6785, establishing uniform dates for daylight saving time. p. 5342
13. ADJOURNED until Mon., Mar. 14. p. 5342

ITEMS IN APPENDIX

14. RECREATION. Rep. Don Clausen inserted an editorial favoring the establishment

BACK PAY ACT OF 1966

MARCH 10, 1966.—Ordered to be printed

Mr. RANDOLPH, from the Committee on Post Office and Civil Service,
submitted the following

R E P O R T

[To accompany H.R. 1647]

The Committee on Post Office and Civil Service, to which was referred the bill (H.R. 1647) to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

AMENDMENT

On page 1, line 3, strike out "1965" and insert in lieu thereof "1966".

PURPOSE

This bill would consolidate and liberalize existing law on the restoration of an employee to his position after an adverse action against him has been found by appellate authority to have been erroneous or unjustified.

Present law excludes backpay for nonveterans in demotion cases in the competitive service; nonveterans in separation, suspension, and demotion cases in the excepted service; and all employees serving probationary periods. Present law also does not credit accumulated leave or provide for normal increments in pay, such as periodic step increases or enactment of Federal salary legislation.

H.R. 1647 would give to all employees, veteran and nonveteran, probationary and career, the benefits of the present law at its best, and liberalize the law by allowing credit for pay increases and accumulation of annual leave which otherwise would have accrued. It puts the employee in the same position he would have been in had the unjustified or erroneous personnel action not taken place.

LEGISLATIVE BACKGROUND

Congress first endorsed the basic principle of backpay in 1948.

This principle holds that an employee is entitled to be made whole whenever an erroneous personnel action which has terminated or reduced his compensation is corrected by appropriate authority.

There are three existing backpay authorities:

Public Law 623, 80th Congress (1948), amends the Lloyd-Lafollette Act

1. Authorizes back pay in improper reduction-in-force action (except demotions), applies to all employees, veterans or nonveterans, competitive or excepted service, whether or not probationary period has been completed.

2. Authorizes back pay in nonsecurity cases involving improper separations (other than RIF) and suspensions of—

(a) all veterans (competitive and excepted) who have completed probationary or trial period; and

(b) all nonveterans with civil service status in competitive service.

3. Does not provide credit for leave accumulation.

Public Law 733, 81st Congress (1950)

1. Authorizes agencies to pay all employees who had been erroneously suspended or removed as a security case for all or part of the period covered.

2. Law has been interpreted (39 Comp. Gen. 52) to permit leave accumulation for period covered.

Veterans' Preference Act (1944)

No specific provision in law for back pay. However, Comptroller General decision B-141501, March 14, 1960 (39 Comp. Gen. 639), interprets law to provide back pay authority when:

1. Veterans in competitive or excepted service (who have completed their trial or probationary period) have been improperly demoted.

2. Veterans and nonveterans in competitive or excepted service have been improperly demoted because of RIF.

To summarize:

COVERAGE OF BACK PAY AUTHORITIES

Actions ¹	Competitive service		Excepted service	
	Veterans	Nonveterans	Veterans	Nonveterans
Separation (RIF)-----	623	623	623	623
Separation (security) ² -----	733	733	733	733
Separation (other)-----	623	623	623	(3)
Suspension (security) ² -----	733	733	733	733
Suspension (other)-----	623	623	623	(3)
Demotion (RIF)-----	(4)	(4)	(4)	(4)
Demotion (other)-----	(4)	(3)	(4)	(3)

¹ In all of these actions except reductions-in-force or security cases under Public Law 733, the employee must have completed his probationary or trial period.

² Back pay may be paid for all or any part of the period.

³ Not covered.

⁴ Comp. Gen.

Gaps in coverage of existing law

1. All employees serving probationary or trial periods (except in RIF actions and security cases covered by Public Law 733).
2. Nonveterans in the excepted service who have been improperly removed, suspended, or demoted (except in RIF actions).
3. Nonveterans in the competitive service who have been improperly demoted (for other than RIF causes).

Liberalizations provided by H.R. 1647

1. H.R. 1647 provides for credit for leave accumulated to cover the period involved but no more than is allowed by existing law. Public Law 623 does not provide this credit.
2. Public Law 733 authorizes agencies to provide backpay for suspensions or terminations in erroneous security actions. However, agency heads under Public Law 733 are authorized to pay for all or any part of the period of erroneous suspension or removal. H.R. 1647 provides for backpay for the entire period. Practice under Public Law 733 has been to authorize payment for the entire period.
3. H.R. 1647 assures credit for increments such as periodic within-grade increases and general pay raises to which the employee would have been entitled had he not been subject to the unjustified or unwarranted action. Public Law 623 and Public Law 733 prevent crediting these increments in computing backpay.
4. H.R. 1647 does not prescribe the specific types of personnel actions covered. Separations, suspensions, and demotions constitute the great bulk of cases in which employees lose pay or allowances, but other unwarranted or unjustified actions affecting pay or allowances could occur in the course of reassignments and change from full-time to part-time work. If such actions are found to be unwarranted or unjustified, employees would be entitled to backpay benefits when the actions are corrected.

SECTIONAL ANALYSIS

The first section of the bill authorizes the use of a short title: the Back Pay Act of 1966.

Section 2 of the bill provides for the coverage of the bill by defining the term "agency."

Section 3 establishes on a uniform basis the principle that a Government officer or employee is entitled to pay or benefits lost as a result of a personnel action which subsequently is found to be unjustified or unwarranted and is corrected by appropriate authority. It will cover pay, allowances, or differentials which such officer or employee normally would have been entitled less any amounts earned by him through other employment during the period the unjustified personnel action was in effect. In addition, leave accumulation, excluded specifically from the backpay provisions of section 6 of the act of August 24, 1912, is authorized uniformly in accordance with the precedent of the more recent act of August 26, 1950.

Section 4 authorizes the U.S. Civil Service Commission to prescribe regulations to carry out the provisions of the bill.

Section 5 repeals the backpay provisions of section 6 of the act of August 24, 1912, and of the first section of the act of August 26, 1950.

COST

The Civil Service Commission believes that enactment of this legislation will lead to a reduction in the number of private relief bills and that this savings in time and cost will substantially offset any increases occasioned by the slightly more extensive coverage.

HEARING

A public hearing on H.R. 1647 was held on February 17, 1966. All testimony favored enactment.

AGENCY VIEWS

Following are letters from the U.S. Civil Service Commission, and the Bureau of the Budget, addressed to the former chairman of this committee, the late Olin D. Johnston, on H.R. 1647.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., April 2, 1965.

HON. OLIN D. JOHNSTON,
*Chairman, Committee on Post Office and Civil Service,
U.S. Senate, New Senate Office Building.*

DEAR MR. CHAIRMAN: This is in reply to your request of February 22, 1965, for the views of the Civil Service Commission on H.R. 1647, a bill to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes.

The Commission endorses this bill. It is identical to H.R. 4837 of the 88th Congress, on which I presented testimony before your committee on February 17, 1964.

The object of the bill is to simplify and equalize existing backpay authorities so as to have a comprehensive, uniform authority for determining and computing backpay entitlement. To this end the bill would supersede the pay provisions of Public Law 80-623 and Public Law 81-733, and would provide a more specific statutory foundation for the authority the Commission now exercises under section 19 of the Veterans' Preference Act.

Essentially the bill is perfecting legislation. It would fill in gaps in the backpay protection currently afforded employees in various situations. It would not add any rights of tenure, review, or appeal, nor would it restrict or define the nature of corrective actions, but it would assure that any employee who appeals an unjustified or unwarranted personnel action under the procedures available to him, and is successful, would be made whole for the losses in pay and benefits he sustained because of the wrongful action. Similarly if an agency on its own initiative should discover that a wrongful action had been taken against an employee, and corrects the action, it would make the employee whole financially.

The bill authorizes the Civil Service Commission to prescribe regulations to carry out its provisions. The bill adequately safeguards the interest of agencies and employees. It does not require agencies to review actions. It does not diminish any right or benefit employees

now have. It does require that appeals must be timely. It limits coverage to unjustified or unwarranted actions taken on or after the date of enactment, except for (1) timely employee appeals not yet decided at the time of enactment, and (2) prior actions reviewed at agency discretion and corrected on which the decision favorable to the employee is made on or after the date of enactment, whether or not the review was begun before enactment. While the language extending retroactive benefits was not included in the Commission's original backpay proposal, the Commission believes that it is sufficiently limited in scope to be administratively feasible.

The Civil Service Commission is thoroughly convinced that backpay legislation is needed in the interest of (1) equity to all employees, (2) more efficient administration of the personnel laws, and (3) fewer costly and time-consuming private bills for the relief of employees who suffer losses for which they are not uniformly entitled to compensation under current laws. Therefore, the Commission urges enactment of this bill.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission.

Sincerely yours,

(Signed) JOHN W. MACY, Jr.,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., March 17, 1965.

HON. OLIN D. JOHNSTON,
*Chairman, Committee on Post Office and Civil Service,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to the committee's request for the views of the Bureau of the Budget respecting H.R. 1647, an act to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes.

The purpose of this act is to perfect and consolidate existing law governing financial restitution to employees returned to duty following unwarranted termination or reduction.

There would be no objection from the standpoint of the administration's program to enactment of H.R. 1647.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, existing law in which no change is proposed is shown in roman):

SECTION 6(b) OF THE ACT OF AUGUST 24, 1912 (5 U.S.C. 652(b))

[(b) (1) Any person removed or suspended without pay under subsection (a) who, after filing a written answer to the charges as provided under such subsection or after any further appeal to proper authority after receipt of an adverse decision on the answer, is reinstated or restored to duty on the ground that such removal or suspension was unjustified or unwarranted, shall be paid compensation at the rate received on the date of such removal or suspension, for the period for which he received no compensation with respect to the position from which he was removed or suspended, less any amounts earned by him through other employment during such period, and shall for all purposes except the accumulation of leave be deemed to have rendered service during such period. A decision with respect to any appeal to proper authority under this paragraph shall be made at the earliest practicable date.]

[(2) Any person who is discharged, suspended, or furloughed without pay, under section 14 of the Veterans' Preference Act of 1944, as amended, who, after answering the reasons advanced for such discharge, suspension, or furlough or after an appeal to the Civil Service Commission, as provided under such section, is reinstated or restored to duty on the ground that such discharge, suspension, or furlough was unjustified or unwarranted, shall be paid compensation at the rate received on the date of such discharge, suspension, or furlough for the period for which he received no compensation with respect to the position from which he was discharged, suspended, or furloughed, less any amounts earned by him through other employment during such period, and shall for all purposes except the accumulation of leave be deemed to have rendered service during such period.]

[(3) Any person removed or suspended without pay in a reduction in force who, after an appeal to proper authority, is reinstated or restored to duty on the ground that such removal or suspension was unjustified or unwarranted shall be paid compensation at the rate received on the date of such removal or suspension, for the period for which he received no compensation with respect to the position from which he was removed or suspended, less any amounts earned by him through other employment during such period, and shall for all purposes except the accumulation of leave be deemed to have rendered service during such period. A decision with respect to any appeal to proper authority under this paragraph shall be made at the earliest practicable date.]

THE FIRST SECTION OF THE ACT OF AUGUST 26, 1950
(5 U.S.C. 22-1)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 6 of the Act of August 24, 1912 (37 Stat. 555), as amended (5 U.S.C. 652), or the provisions of any other law, the Secretary of State; Secretary of Commerce; Attorney General; the Secretary of Defense; the Secretary of the Army; the Secretary of the Navy; the Secretary of the Air Force; the Secretary of the Treasury; Atomic Energy Commission; the Chairman, National Security Resources Board; or the Administrator of the National Aeronautics and Space Administration, may, in his absolute discretion and when deemed necessary in the interest of national security, suspend, without pay, any civilian officer or employee of the Department of State (including the Foreign Service of the United States), Department of Commerce, Department of Justice, Department of Defense, Department of the Army, Department of the Navy, Department of the Air Force, Coast Guard, Atomic Energy Commission, National Security Resources Board, or National Aeronautics and Space Administration, respectively, or of their several field services: *Provided*, That to the extent that such agency head determines that the interests of the national security permit, the employee concerned shall be notified of the reasons for his suspension and within thirty days after such notification any such person shall have an opportunity to submit any statements or affidavits to the official designated by the head of the agency concerned to show why he should be reinstated or restored to duty. The agency head concerned may, following such investigation and review as he deems necessary, terminate the employment of such suspended civilian officer or employee whenever he shall determine such termination necessary or advisable in the interest of the national security of the United States, and such determination by the agency head concerned shall be conclusive and final: *Provided further*, That any employee having a permanent or indefinite appointment, and having completed his probationary or trial period, who is a citizen of the United States whose employment is suspended under the authority of this Act, shall be given after his suspension and before his employment is terminated under the authority of this Act, (1) a written statement within thirty days after his suspension of the charges against him, which shall be subject to amendment within thirty days thereafter and which shall be stated as specifically as security considerations permit; (2) an opportunity within thirty days thereafter (plus an additional thirty days if the charges are amended) to answer such charges and to submit affidavits; (3) a hearing, at the employee's request, by a duly constituted agency authority for this purpose; (4) a review of his case by the agency head, or some official designated by him, before a decision adverse to the employee is made final; and (5) a written statement of the decision of the agency head: *Provided further*, That any person whose employment is so suspended or terminated under the authority of this Act may, in the discretion of the agency head concerned, be reinstated or restored to duty, and if so reinstated or restored shall be allowed compensation for all or any part of the period of such suspension or termination in an amount not to exceed the difference between the amount such person would

normally have earned during the period of such suspension or termination, at the rate he was receiving on the date of suspension or termination, as appropriate, and the interim net earnings of such person¹: *Provided further*, That the termination of employment herein provided shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government: *Provided further*, That the head of any department or agency considering the appointment of any person whose employment has been terminated under the provisions of this Act may make such appointment only after consultation with the Civil Service Commission, which agency shall have the authority at the written request of either the head of such agency or such employee to determine whether any such person is eligible for employment by any other agency or department of the Government.



Calendar No. 1031

89TH CONGRESS
2D SESSION

H. R. 1647

[Report No. 1062]

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 1965

Read twice and referred to the Committee on Post Office and Civil Service

MARCH 10, 1966

Reported by Mr. RANDOLPH, with an amendment

[Omit the part struck through and insert the part printed in italic]

AN ACT

To provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Back Pay Act of ~~1965~~
4 1966".

5 SEC. 2. For the purposes of this Act—

6 (1) "agency" means—

7 (A) each executive department of the Govern-
8 ment of the United States;

1 (B) each agency or independent establish-
2 ment in the executive branch of such Government;

3 (C) each corporation owned or controlled by
4 such Government;

5 (D) the Administrative Office of the United
6 States Courts;

7 (E) the Library of Congress;

8 (F) the General Accounting Office;

9 (G) the Government Printing Office; and

10 (H) the municipal government of the District
11 of Columbia.

12 SEC. 3. Each civilian officer or employee of an agency
13 who, on the basis of an administrative determination or a
14 timely appeal, is found, on or after the date of enactment of
15 this Act, by appropriate authority under applicable law or
16 regulation to have undergone an unjustified or unwarranted
17 personnel action taken prior to, on, or after the date of
18 enactment of this Act, which has resulted in the withdrawal
19 or reduction of all or any part of the pay, allowances, or
20 differentials of such officer or employee—

21 (1) shall be entitled, upon correction of such per-
22 sonnel action, to receive for the period for which such
23 personnel action was in effect an amount commensurate
24 with the amount of all or any part of the pay, allow-
25 ances, or differentials, as applicable, which such officer

or employee normally would have earned during such period if such personnel action had not occurred, less any amounts earned by him through other employment during such period; and

(2) for all purposes, shall be held and considered to have rendered service for such agency during such period, except that such officer or employee shall not be credited, by reason of the enactment of this Act, leave in an amount which would cause any amount of leave to his credit to exceed any maximum amount of such leave authorized for such officer or employee by law or regulation.

SEC. 4. The United States Civil Service Commission shall prescribe regulations to carry out the provisions of this Act. Such regulations shall not be applicable with respect to the Tennessee Valley Authority and its officers and employees.

SEC. 5. There are hereby repealed—

(1) section 6 (b) of the Act of August 24, 1912, as amended (5 U.S.C. 652 (b)) ; and

(2) that part of the third proviso of the first section of the Act of August 26, 1950 (5 U.S.C. 22-1), which reads: “, and if so reinstated or restored shall be allowed compensation for all or any part of the period of such suspension or termination in an amount

1 not to exceed the difference between the amount such
 2 person would normally have earned during the period
 3 of such suspension or termination, at the rate he was
 4 receiving on the date of suspension or termination, as
 5 appropriate, and the interim net earnings of such
 6 person”.

Passed the House of Representatives February 10, 1965.

Attest:

RALPH R. ROBERTS,

Clerk.

89TH CONGRESS
2^D SESSION

H. R. 1647

[Report No. 1062]

AN ACT

To provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes.

FEBRUARY 11, 1965

Read twice and referred to the Committee on Post
Office and Civil Service

MARCH 10, 1966

Reported with an amendment

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED

Issued March 15, 1966
For actions of March 14, 1966
89th-2nd; No. 44

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HIGHLIGHTS: Sens. Proxmire and Fannin criticized school milk budget cut. Sen. Tirk-
sen inserted items critical of meat inspection user charges proposal.

SENATE

1. ALASKA EXPOSITION. Concurred in the House amendment to S. 2614, to provide for U. S. participation in the statewide exposition to be held in Alaska during 1967. This bill will now be sent to the President. pp. 5438-45
2. PERSONNEL. Passed without amendment H. R. 432, to amend the Federal Employees' Group Life Insurance Act and the Civil Service Retirement Act so as to provide for assurance of a valid acquittance to the insurer or the Government upon payment to a claimant properly entitled under such acts. This bill will now be sent to the President. pp. 5349-50

Passed as reported H. R. 1647, to provide for the payment of certain amounts and the restoration of employment benefits to Federal employees improperly deprived thereof by an unjustified or erroneous personnel action. p. 5349

The Post Office and Civil Service Committee reported H. R. 969, without amendment, to authorize redetermination under the Civil Service Retirement Act of annuities of certain reemployed annuitants (S. Rept. 1069), and H. R. 1746, with amendment, to redefine the term "child" for lump-sum payment purposes under the Civil Service Retirement Act (S. Rept. 1070). p. 5353

3. PEACE CORPS. Received from the President the annual report on the Peace Corps; to Foreign Relations Committee. p. 5347
4. FOREIGN TRADE. Received from the President a message stating that the U. S. and Canada "have concluded a trade agreement resulting from the entry into force in 1963 of the revised Tariff Schedules of the United States--TSUS"; to Finance Committee. p. 5347
5. CLAIMS. Both Houses received from the Justice Department proposed legislation: To amend the Federal Tort Claims Act to authorize increased agency consideration of tort claims against the Government; to establish a statute of limitations for certain actions brought by the Government; and to avoid unnecessary litigation by providing for the collection of claims of the U. S.; to Judiciary Committee. pp. 5353, 5531
6. SCHOOL MILK. Sens. Proxmire and Fannin criticized the budget cut for the school milk program, and Sen. Proxmire stated that "the administration's Child Nutrition Act will lower rather than raise the nutritional standards of our Nation's schoolchildren." pp. 5371, 5393
Sens. Fannin and Hartke were added as cosponsors of S. 2921, to provide a special milk program for children. p. 5368
7. MEAT INSPECTION; USER CHARGES. Sen. Dirksen inserted two items critical of the proposal for user charges for meat inspection. p. 5369
8. FOOD FOR FREEDOM. Sen. McGovern inserted the testimony of Secretary of State Rusk and AID Administrator Bell, and Sen. Mondale inserted a speech by Surgeon General Stewart, supporting the proposed Food for Freedom program. pp. 5407-10, 5417-8
9. FOREIGN CURRENCIES. Sen. Hayden inserted the reports of several Congressional committees and delegations on the expenditure of foreign currencies in connection with foreign travel. pp. 5353-60
10. POVERTY. Sen. Williams, Del., criticized expenditures under the poverty program and inserted two items on expenditures in New York City. pp. 5378-9
11. WATER POLLUTION. Sen. Clark commended the President's Reorganization Plan to transfer the Federal Water Pollution Control Administration from HEW to Interior. pp. 5381-2
12. ELECTRIFICATION. Sen. Cannon commended the project in Utah for "the generation of mine-mouth electricity," which he stated would use coal deposits and the water from Lake Powell to produce electricity. pp. 5411-3

action purporting to extend to March 15, 1956, the time within which leave available for the 1955 leave year could be used is hereby validated.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1061), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 2573 is to give congressional validation to the action of the Acting Superintendent of Yosemite National Park in extending the 1955 leave year for certain Federal employees.

STATEMENT

During a severe flood emergency in December 1955, the Acting Superintendent of Yosemite National Park found it necessary to recall to duty a number of employees who were on annual leave, and to cancel additional leave requests. As a result of these actions, it became impossible for several employees to use their annual leave before the end of the year. Such leave time, unused at year's end is forfeited.

In an effort to provide these employees their earned annual leave, the Acting Superintendent issued an order which purported to extend to March 15, 1956, the period within which these employees could carry over and make use of this annual leave without forfeiture.

On July 7, 1958, the Comptroller General of the United States issued a decision declaring the above-described action of the Acting Superintendent invalid. The Comptroller General's determination recognized the practicalities of the situation which precipitated the Acting Superintendent's orders, but stated that such action was invalid.

The proposed legislation affects 23 persons. Eleven of these have been separated from the Federal service. Eight of them received overpayment of terminal leave. Seven others have been transferred from their posts at Yosemite National Park. Five of the persons involved are still employed at Yosemite.

The committee concurs in the view expressed by the Department of Interior through the statement of its Assistant Secretary, D. Otis Beasley:

"We believe that the Acting Superintendent would have been remiss in his duties if he had not taken prompt action to utilize all available manpower to save lives and property as a result of the disaster. The employees who responded to the call of this governmental official, who acted in good faith and in the best interest of the United States, should not be penalized."

BACKPAY ACT OF 1966

The Senate proceeded to consider the bill (H.R. 1647) to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes which had been reported from the Committee on Post Office and Civil Service with an amendment on page 1, line 3, after the word "of", to strike out "1965" and insert "1966".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1062), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This bill would consolidate and liberalize existing law on the restoration of an employee to his position after an adverse action against him has been found by appellate authority to have been erroneous or unjustified.

Present law excludes backpay for non-veterans in demotion cases in the competitive service; nonveterans in separation, suspension, and demotion cases in the excepted service; and all employees serving probationary periods. Present law also does not credit accumulated leave or provide for normal increments in pay, such as periodic step increases or enactment of Federal salary legislation.

H.R. 1647 would give to all employees, veteran and nonveteran, probationary and career, the benefits of the present law at its best, and liberalize the law by allowing credit for pay increases and accumulation of annual leave which otherwise would have accrued. It puts the employee in the same position he would have been in had the unjustified or erroneous personnel action not taken place.

LEGISLATIVE BACKGROUND

Congress first endorsed the basic principle of backpay in 1948.

This principle holds that an employee is entitled to be made whole whenever an erroneous personnel action which has terminated or reduced his compensation is corrected by appropriate authority.

NONPAY STATUS FOR CONGRESSIONAL EMPLOYEES

The Senate proceeded to consider the bill (H.R. 10553) to preserve the benefits of the Civil Service Retirement Act, the Federal Employees Group Life Insurance Act of 1954, and the Federal Employees Health Benefits Act of 1959, for congressional employees receiving certain congressional staff fellowships which had been reported from the Committee on Post Office and Civil Service with an amendment on page 1, line 8, after "January 1," to strike out "1965" and insert "1963".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1063), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

STATEMENT

This bill would create a nonpay status for employees of the Senate and House of Representatives so that they could continue to participate in and receive the benefits of fringe-benefit programs on a basis equal to that enjoyed by employees of the executive branch who are in a nonpay status.

In 1963, the American Political Science Association established a special fellowship program consisting of 12 grants to be awarded

to employees of the Congress to further their education and improve their ability to serve the legislative branch.

In the executive branch, employees who attend school to improve their efficiency and effectiveness for Federal service are permitted to continue their coverage, without personal contribution, under the Federal Employees' Group Life Insurance Act, the Federal Employees Health Benefits Act, and the Civil Service Retirement Act.

Unfortunately, even though the Member of Congress employing the recipient of such an award agrees to reemploy him at the end of the fellowship period, present law does not permit an employee whose salary is disbursed by the Secretary of the Senate, or the Clerk of the House of Representatives to enjoy a nonpay status. An employee is either on or off the payroll. When he is separated to pursue studies under the fellowship program in a university or college, his employment status with the Congress ceases and his fringe benefit coverage also ceases.

H.R. 10553 would remedy this inequity by extending to fellowship recipients a nonpay status solely for the purposes of continuing coverage under the life insurance, health insurance, and civil service retirement programs without personal contribution during the period of nonpay status.

To be considered in a nonpay status the bill requires that the appointing authority (Member of Congress, committee chairman, elected or appointed official) certify that such employee will be, or has been, separated for the purpose of entering into a congressional staff fellowship during the life of such award. Thus, the certification will permit the employee (1) to retain his coverage under the health benefits program, (2) to be insured under the group life insurance program at the rate of salary he was receiving upon entering into the fellowship (or at the rate of salary otherwise payable by reason of any subsequent statutory salary increases), and (3) to continue to receive credit for time and average salary purposes under the retirement program. Provision is made for authorizing nonpay status in the case of an employee who commences a fellowship after the death or disability of his employing Member, and prior to the election of a successor.

The bill contemplates that absolute separation will occur upon expiration of the term of the fellowship in the event of the employee fails, or is unable, to resume congressional employment. Inasmuch as the status of nonpay is preserved to a separated employee, the clerk-hire allowance or committee complement would not be charged with such an employee against its statutory limitation of employees.

AMENDMENT

The committee has amended the bill by providing retroactivity to January 1, 1963. As referred, employees of the Congress who received such awards on and after January 1, 1965, would receive the benefits of the bill. The committee believes it is fair to make the benefits retroactive to the beginning of the American Political Science Association congressional staff fellowship program, January 1963. The only additional cost involved will be the contribution to the civil service retirement and disability fund for the 24 employees who received fellowships in 1963 and 1964.

DESIGNATIONS OF BENEFICIARIES ON FEDERAL EMPLOYEES GROUP LIFE INSURANCE

The bill (H.R. 432) to amend the Federal Employees Group Life Insurance Act of 1954 and the Civil Service Retirement Act with regard to filing designa-

tion of beneficiary and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1064), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 432 would amend the provisions of law in the Federal Employees' Group Life Insurance Act and the Civil Service Retirement Act which control the payment of insurance and retirement benefits to survivors of Federal employees. A bill of similar intent was passed by the Senate during the 2d session of the 88th Congress.

JUSTIFICATION

Federal employees covered by the life insurance program established under the Federal Employees' Group Life Insurance Act of 1954 are requested, but not required, to designate a beneficiary of the insurance provided in the event of the employee's death. If no beneficiary is designated in writing by the employee and properly filed in the employer's office prior to the employee's death, the insurance payable at death is paid according to an order of precedence set out in section 4 of the Life Insurance Act (5 U.S.C. 2093).

Section 4 states:

"Any amount of group life insurance and group accidental death insurance in force on any employee at the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"First, to the beneficiary or beneficiaries as the employee may have designated by a writing received in the employing office prior to death;

"Second, if there be no such beneficiary, to the widow or widower of such employee;

"Third, if none of the above, to the child or children of such employee and descendants of deceased children by representation;

"Fourth, if none of the above, to the parents of such employee or the survivor of them;

"Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such employee;

"Sixth, if none of the above, to other next of kin of such employee entitled under the laws of domicile of such employee at the time of his death."

By regulation, the Civil Service Commission has interpreted the statutory order of precedence to exclude any designation or change of beneficiary in any will or other writing not properly filed in the employing office or the Civil Service Commission. The purpose of the regulation has been to insure that the contract of insurance would prevail in all cases regardless of the claims of any parties other than the designated beneficiary or the person entitled to payment under the provisions of section 4.

In 1961, a California case, *Austin v. Sears* (292 Federal 2d 960) held that where no beneficiary had been named in the insurance contract, the designation of a beneficiary in a valid will would prevail over the beneficiary enumerated in section 4 of the act in order to comply with the wishes of the insured employee. In that case, the funds payable had been deposited by the Metropolitan Life Insurance Co. into the court, and the issue was between the competing beneficiaries of the act and the will.

Other cases have held to the contrary. *Breckline v. Metropolitan* (178 Atlantic 2d 748). The equities in *Sears* may have prompted the court of appeals to disregard

the civil service regulation and the general intent of the statute in order to comply with the insured's wishes, but the precedent established in that case could, if generally followed, result in administrative difficulties for the Civil Service Commission and the insurance companies and, more important, seriously delay paying insurance benefits to survivors of Federal employees.

To clarify Congress intent, H.R. 432 rewrites section 4 to state clearly that the order of procedure set out in that section shall prevail over any extraneous document designating a beneficiary unless the designation has been properly received in the employing office or by the Civil Service Commission.

To avoid the possibility of similar problems in regard to the payment of lump-sum benefits to survivors of Federal employees under the Civil Service Retirement Act, section 11 of that act has also been revised.

Public hearings were held on a similar bill, S. 1974, on February 10, 1964, before the Senate Subcommittee on Health Benefits and Life Insurance. The Chairman of the U.S. Civil Service Commission, John W. Macy, Jr., testified in favor of enactment. No opposition was expressed and none has since been received by the committee.

DISCONTINUANCE OF POSTAL SAVINGS SYSTEM

The bill (H.R. 8030) to provide for the discontinuance of the Postal Savings System and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1065), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 8030 is an administration recommendation to provide for the termination of the Postal Savings System.

JUSTIFICATION

The Postal Savings System was established by Congress in 1910 to provide a convenient and safe depository for public investment. Instituted in the progressive era, it met the needs of the times when banks were neither numerous nor always reliable.

From its establishment until the end of the Second World War, the System steadily increased its balance of funds owned by depositors in thousands of post offices all over the United States. From an infant size of 11,918 depositors and \$677,145 in deposits in 1911, the System grew to include 4,196,517 depositors with a balance of \$3,392,773,461 in its peak year of 1947. A significant portion of this growth occurred during the Second World War when consumer goods were in short supply and employment and wage levels were high.

By law, the System pays interest at a rate of 2 percent per annum, compounded annually. For many years this rate of interest was competitive with private banking institutions and savings and loan associations. But in recent years, interest paid in private enterprise to investors has markedly increased. At the present time interest in excess of 4 percent compounded quarterly is commonly found in the banking industry, and interest in excess of 5 percent compounded monthly (or even daily) is found in certain investment companies and savings and loan associations.

The Postal Savings System was not designed to compete with private enterprise, and it has not done so. It has served as a convenient and guaranteed-safe depository

for citizens' savings. Since the 1930's, however, and the enactment of the Federal Deposit Insurance Act and related legislation, the characteristic of safety is not confined to postal savings. In fact, the maximum deposit of \$2,500 on any one account is only 25 percent of the insured amount in FDIC bank accounts or federally insured savings and loan accounts.

Since 1947, the number of depositors and the balance of deposits has annually declined. At the end of fiscal year 1964, there were 1,076,225 depositors owning a balance of \$415,965,295. One year later, the number of depositors had declined to 997,029, owning a balance of \$344,233,788, a dollar decline of 17.2 percent.

ALASKAN CENTENNIAL MEDALS

The bill (S. 2719) to provide for the striking of medals in commemoration of the 100th anniversary of the purchase of Alaska by the United States from Russia was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in commemoration of the one hundredth anniversary of the purchase of Alaska by the United States from Russia (which anniversary will be celebrated in 1967), the Secretary of the Treasury is authorized and directed to strike and furnish to the Alaska Centennial Commission not more than two hundred thousand medals with suitable emblems, devices, and inscriptions to be determined by the approval of the Secretary of the Treasury. The medals shall be made and delivered at such times as may be required by the Commission in quantities of not less than two thousand, but no medals shall be made after December 31, 1967. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes.

SEC. 2. The Secretary of the Treasury shall cause such medals to be struck and furnished at not less than the estimated cost of manufacture; including labor, materials, dies, use of machinery, and overhead expenses; and security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for full payment of such costs.

SEC. 3. The medals authorized to be issued pursuant to this Act shall be of such size or sizes and of such metals as shall be determined by the Secretary of the Treasury in consultation with such Commission.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1066), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

GENERAL STATEMENT

S. 2719 was introduced by Senators BARTLETT and GRUENING on October 22, 1965. The bill would provide for the striking of not more than 200,000 medals in commemoration of the 100th anniversary of the purchase of Alaska by the United States from Russia.

The bill would authorize and direct the Secretary of the Treasury to strike and furnish the medals to the Alaska Centennial Commission. The medals will bear suitable emblems, devices, and inscriptions to be determined by the Commission subject to the approval of the Secretary of the Treasury. The bill provides that no medal shall be made after December 31, 1967. They will

Banking and Currency Committee will begin hearings Apr. 19 on the President's 1966 housing proposals. p. 6051

13. ALLIANCE FOR PROGRESS. Sen. Mansfield commended accomplishments under the Alliance for Progress program for Latin America on its fifth anniversary and inserted the President's statement commemorating the occasion. pp. 6064-5
14. FOREIGN AID. Sen. Fong urged increased economic aid to southeast Asia, and commended the President's Honolulu conference with South Vietnamese leaders emphasizing "increased U. S. assistance to South Vietnam in the fields of education, health, agriculture, and economic development." pp. 6087-8
15. WATER RESEARCH. Sen. McGovern inserted the report of the Secretary of the Interior and a statement by Sen. Anderson on water resources research activities. pp. 6095-6101
16. EDUCATION. Sen. Muskie expressed concern over possible effects of proposed budget cuts for Federal aid to schools in federally impacted areas. p. 6065
17. WASTE DISPOSAL. Sen. Ribicoff inserted his address before the Waterbury Conference on Waste Disposal, Waterbury, Conn., "Federal Aspects of Industrial Waste Disposal." pp. 6069-71
18. RECREATION. Sen. Harris inserted an address on the recreation potential in the Arkansas River Basin. pp. 6075-7
19. FARMERS UNION. Sens. Yarborough and McCarthy commended the service of James G. Patton who recently retired as president of the National Farmers Union. pp. 6064, 6091-2
- Sen. Montoya commended the election of Tony T. Dechant as new president of the National Farmers Union. p. 6078

HOUSE

- ~~PERSONNEL. The Rules Committee reported a resolution for the consideration of H. R. 10607, to amend the Administrative Expenses Act to provide reimbursement of additional moving expenses in connection with station transfers. p. 6038~~
- Concurred in Senate amendment to H. R. 1647, to provide for the payment of certain amounts and the restoration of employment benefits to Federal employees improperly deprived thereof by an unjustified or erroneous personnel action. This bill will now be sent to the President. p. 5990
21. LABOR STANDARDS. The Education and Labor Committee voted to report (but did not actually report) with amendment H. R. 13712, to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees and to raise the minimum wage. p. D226
22. ELECTRIFICATION. A subcommittee of the Interior and Insular Affairs Committee approved for full committee action with amendment H. R. 7406, to authorize the construction, operation, and maintenance of a third powerplant at the Grand Coulee Dam, Columbia Basin project, Wash. p. D227
23. CONSUMER INTERESTS. Several Representatives commended the President's message on consumer interests. pp. 5993-4, 5994, 5995, 5995-6, 5996-7

24. TRANSPORTATION. Reps. Pelly and Duncan, Oreg., urged passage of S. 1098, to insure the adequacy of the national railroad freight car supply. pp. 5989, 6015
25. STRIP MINING. Rep. Hechler commended the Governor of W. Va. for his "firm stand to control strip mining" in W. Va. and inserted excerpts from the Governor's speech before the task force on surface mining. pp. 6008-11
26. POVERTY. Several Representatives discussed, and inserted articles discussing, the "successes and shortcomings" of the poverty program. pp. 6022-25, 6032-3
27. UNEMPLOYMENT COMPENSATION. Rep. Pirnie criticized the provisions in H. R. 8282, to establish a program of Federal unemployment adjustment benefits, stating that "it contemplates federalization of a program that has, since its inception, worked effectively through Federal-State cooperation." pp. 6025-6
28. ANIMAL RESEARCH. Rep. Schweiker urged support of his bill, H. R. 13720, "to provide effective protection to dogs and cats while not hindering important research efforts" rather than "the meaningless measures such as the one reported last week to the Agriculture Committee." pp. 6026-7
29. INFLATION. Rep. Dickinson expressed concern over "ever-increasing" inflation and inserted an editorial on the subject. pp. 6027-8
30. HIDE EXPORTS. Rep. Langen stated that the recent "order to control exports of cattle hides...is another round in the admitted policy of this administration to keep farm prices down." p. 6028
31. OPINION POLL. Rep. Langen inserted the results of an opinion poll including items of interest to this Department. p. 6028
32. CONSERVATION. Rep. Matthews paid tribute to the work of the soil and water conservation districts in Florida. p. 6030
33. WILDLIFE. Rep. Sickles called attention to National Wildlife Week, Mar. 20-26 and paid tribute to the National Wildlife Association. pp. 6030-1
34. WATER RESOURCES. Received a report from the President on the Committee on Water Resources Research of the Federal Council for Science and Technology. p. 6037
35. FOREIGN AID. Received from AID its reply to the Comptroller General "relative to his report on unnecessary dollar grants to Iran under the foreign assistance program." p. 6038

ITEMS IN APPENDIX

36. WATER RESOURCES. Sen. Ellender inserted Gov. Burns' speech on the importance to Florida's future the development of water resources. pp. A1581-2
37. SOIL CONSERVATION. Extension of remarks of Rep. O'Neal, Ga., praising the Soil Conservation Service and inserting his statement to the Appropriations Committee urging restoration of proposed reductions. p. A1593
38. ECONOMICS. Extension of remarks of Rep. Buchanan stating that "The need for



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House of Representatives

The House met at 12 o'clock noon.
Rabbi Avraham Soltes, Temple Emanuel, Great Neck, N.Y., and chaplain, U.S. Military Academy, West Point, N.Y., offered the following prayer:

O God of mind and heart: as we turn our hearts toward the challenge of this new day, we thank Thee for the power planted within us to renew the world with each day's dawn.

Give us wisdom, we pray Thee, to see in our problems a tribute to our talents—the creative skill Thou hast granted us to make order out of chaos and reason out of confusion.

Give us heart, we pray Thee, to treat the shortcomings of our fellows with the charity we would seek for our own.

Give us courage, we implore Thee, to believe that we possess the power to shape our universe more closely to Thy sacred vision; that the world may gaze upon our handiwork this day and give thanks that Thou hast made us in Thine own image. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, March 17, 1966, was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On March 15, 1966:

H.R. 12752. An act to provide for graduated withholding of income tax from wages, to require declarations of estimated tax with respect to self-employment income, to accelerate current payments of estimated income tax by corporations, to postpone certain excise tax rate reductions, and for other purposes.

On March 16, 1966:

H.R. 12663. An act to provide for the participation of the United States in the Asian Development Bank.

On March 17, 1966:

H.R. 1918. An act for the relief of Eligio Cardillo;

H.R. 2627. An act for the relief of certain classes of civilian employees of naval instal-

lations erroneously in receipt of certain wages due to misinterpretation of certain personnel instructions;

H.R. 3076. An act for the relief of the estate of Bart Briscoe Edgar, deceased;

H.R. 3236. An act for the relief of Louis Shchuchinski;

H.R. 4995. An act for the relief of Muhammad Sarwar;

H.R. 5231. An act for the relief of Jack Ralph Walker;

H.R. 5973. An act for the relief of Edwin F. Howes;

H.R. 7667. An act for the relief of Donald F. Farrell; and

H.R. 10338. An act for the relief of Joseph B. Stevens.

On March 18, 1966:

H.R. 5530. An act for the relief of the estate of Robert A. Eldridge; and

H.R. 12169. An act to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 969. An act to authorize redetermination under the Civil Service Retirement Act of annuities of certain reemployed annuitants; and

H.R. 7526. An act to provide for the striking of medals in commemoration of the 250th anniversary of the founding of San Antonio.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1746. An act to define the term "child" for lump-sum payment purposes under the Civil Service Retirement Act; and

H.R. 6926. An act to strengthen the financial condition of the Employees' Life Insurance Fund created by the Federal Employees' Group Life Insurance Act of 1954, to provide certain adjustments in amounts of group life and group accidental death and dismemberment insurance under such act, and for other purposes.

TAXATION WITHOUT REPRESENTATION

(Mr. WOLFF asked and was given permission to address the House for 1 min-

ute and to revise and extend his remarks.)

[Mr. WOLFF addressed the House. His remarks will appear hereafter in the Appendix.]

LEGISLATION NEEDED TO LESSEN FREIGHT CAR SHORTAGE

(Mr. PELLY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. PELLY. Mr. Speaker, I want to speak briefly about the serious railroad boxcar shortage.

As the Members of the House know, railroad freight movements are running 11 percent above last year and in the meanwhile there is a crippling shortage of railroad boxcars in the West which is causing serious delays in the delivery of freight. As a result, the Pacific Northwest faces serious shortages of equipment and materials and 12 lumber mills in Washington and Oregon, I am informed, are being forced to close because they cannot ship their products.

Last week, following an emergency session, the Interstate Commerce Commission issued an order requiring return of all Great Northern and Northern Pacific boxcars. But this is only a temporary 60-day measure and fails to offer any long-range solution to the problem. What is needed, Mr. Speaker, is passage of Senate bill 1098 to raise the per diem rental charge on freight cars so that there would be a greater incentive for individual railroads to build and own their own boxcars rather than to use those that belong to other railroads.

Apparently certain large eastern railroads, especially the New York Central and the Pennsylvania Railroad, have been successful in keeping Senate bill 1098 from reaching the floor, although it passed the Senate and was favorably reported by the House Interstate and Foreign Commerce Committee. In the meanwhile, western lumber and grain industries are in serious jeopardy.

Mr. Speaker, it is about time the national interest is recognized and selfish interests refrain from blocking this legislation.

CAPT. ROBERT D. THORSON

(Mr. TEAGUE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TEAGUE of California. Mr. Speaker, officials of the Navy League of the United States have advised me that Captain Thorson, commanding officer, Construction Battalion Center, Port Hueneme, Calif., has acted far above and beyond any ordinary expectations in his concentrated efforts to be of service in the initiation of a sea cadet program for the Ventura County, Calif., area.

In these troubled times, there is much widespread confusion among the youth of our country as to the ideals and leadership worthy of emulation. It is the opinion of the Navy League and that more public recognition is warranted when an officer of the U.S. Navy is so dedicated to the fostering of our American heritage that he will give unlimited time and tireless effort to a program which offers boys an opportunity to develop a sense of duty and responsibility to serve their country.

On March 26, 1966, the U.S. Naval Sea Cadets, U.S.S. *Norton Sound* Division, will hold its commissioning ceremony. At that ceremony, Captain Thorson will be honored for his immeasurable contributions to the Navy League and the whole community.

I am sure that all of my colleagues join me in commending their fine Navy officer for his outstanding service to our youth.

PAYMENT OF CERTAIN AMOUNTS AND RESTORATION OF EMPLOYMENT BENEFITS TO CERTAIN GOVERNMENT OFFICERS AND EMPLOYEES

Mr. OLSEN of Montana. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1647) to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes, with a Senate amendment, and concur in the Senate amendment.

The Clerk read the title of the bill. The Clerk read the Senate amendment, as follows:

Page 1, line 3, strike out "1965" and insert "1966".

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

COMMITTEE ON RULES

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

SERVICES FOR THE LATE MRS. EMANUEL CELLER

(Mr. ALBERT asked and was given permission to address the House for 1 minute.)

Mr. ALBERT. Mr. Speaker, I have the sad duty to advise the House that Mrs. Emanuel Celler, wife of the beloved and distinguished dean of the House of Representatives, passed away this morning at about 1 a.m.

I am advised that the services for Mrs. Celler will be Wednesday at 12 noon at Temple Beth Elohim, Eighth Avenue and Garfield Place, Brooklyn. The body will lie in repose at the Riverside Chapel, 1 Ocean Parkway, Brooklyn.

I know that I express the feeling of all Members when I say that our hearts go out to the distinguished gentleman who has served with great distinction in the House for so many years and to all of his loved ones.

PRESERVATION OF THE BENEFITS OF THE CIVIL SERVICE RETIREMENT ACT, THE FEDERAL EMPLOYEES' GROUP LIFE INSURANCE ACT OF 1954, AND THE FEDERAL EMPLOYEES HEALTH BENEFITS ACT OF 1959 FOR CONGRESSIONAL EMPLOYEES RECEIVING CERTAIN CONGRESSIONAL STAFF FELLOWSHIPS

Mr. DANIELS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10553) to preserve the benefits of the Civil Service Retirement Act, the Federal Employees' Group Life Insurance Act of 1954, and the Federal Employees Health Benefits Act of 1959 for congressional employees receiving certain congressional staff fellowships, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill. The Clerk read the Senate amendment, as follows:

Page 1, line 8, strike out "1965" and insert "1963".

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

CONSUMER INTERESTS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER. The Chair lays before the House a message from the President of the United States.

CALL OF THE HOUSE

Mr. HALL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 41]

Anderson, Tenn.	Fulton, Tenn.	Morton
Andrews, N. Dak.	Fuqua	Murphy, N.Y.
Ashbrook	Gallagher	Murray
Ashley	Gialmo	Nix
Bandstra	Gilbert	O'Neal, Ga.
Baring	Grabowski	O'Neill, Mass.
Blatnik	Green, Oreg.	Pirnie
Boggs	Griffin	Pool
Bolling	Gurney	Powell
Bray	Hagan, Ga.	Quillen
Burleson	Hagen, Calif.	Rees
Cahill	Haley	Reld, N.Y.
Callaway	Halpern	Resnick
Cameron	Hardy	Rivers, S.C.
Casey	Harvey, Ind.	Roberts
Celler	Hawkins	Roncallo
Clancy	Henderson	Rostenkowski
Clark	Herlong	Scheuer
Clausen, Don H.	Hicks	Scott
Cleveland	Holland	Shipley
Clevenger	Irwin	Sickles
Conyers	Jarman	Sisk
Cooley	Jennings	Smith, N.Y.
Craley	Karsten	Stephens
Cuftin	Keogh	Sweeney
Davis, Ga.	Kornegay	Talcott
Devine	Kupferman	Teague, Tex.
Diggs	Landrum	Thompson, Tex.
Donohue	Lennon	Todd
Dow	Lipscomb	Toll
Downing	Long, Md.	Van Deerlin
Edwards, Calif.	McClary	Vivian
Edwards, La.	McDowell	Walker, Miss.
Ellsworth	McFall	Watkins
Farnum	McVicker	Watts
Feighan	Macdonald	Weltner
Findley	Martin, Mass.	Whalley
Fino	Mathias	White, Idaho
Ford, Gerald R.	May	Williams
Fraser	Mize	Willis
	Monagan	Wilson, Bob
	Moorhead	Wyder
	Morris	Yates

The SPEAKER. On this rollcall, 307 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONSUMER INTERESTS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 413)

The SPEAKER. The Clerk will read the message from the President of the United States.

The Clerk read as follows:

To the Congress of the United States:

The consumer's interest is the American interest.

In guarding it, in promoting it, we improve the lives of every man, woman, and child in our Nation.

Consumers are all the people—the worker, the farmer, the businessman, and their families.

Every domestic program of the Federal Government in a very real sense is directed toward the consumer. When we work to stem pollution, improve transportation, or rebuild our cities, we promote the welfare of the American consumer.

The consumer has a right to a dollar of stable purchasing power.

I pledge to defend that right with all the ability and determination at my command.

All Americans can take pride in the economic record of recent years.

We are in the 61st month of unparalleled prosperity—the longest in our peacetime history.



Public Law 89-380
89th Congress, H. R. 1647
March 30, 1966

An Act

To provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Back Pay Act of 1966".

Back Pay Act
of 1966.

SEC. 2. For the purposes of this Act—

"Agency."

(1) "agency" means—

(A) each executive department of the Government of the United States;

(B) each agency or independent establishment in the executive branch of such Government;

80 STAT. 94

(C) each corporation owned or controlled by such Government;

80 STAT. 95

(D) the Administrative Office of the United States Courts;

(E) the Library of Congress;

(F) the General Accounting Office;

(G) the Government Printing Office; and

(H) the municipal government of the District of Columbia.

SEC. 3. Each civilian officer or employee of an agency who, on the basis of an administrative determination or a timely appeal, is found, on or after the date of enactment of this Act, by appropriate authority under applicable law or regulation to have undergone an unjustified or unwarranted personnel action taken prior to, on, or after the date of enactment of this Act, which has resulted in the withdrawal or reduction of all or any part of the pay, allowances, or differentials of such officer or employee—

Unjustified
personnel
action, bene-
fit principles.

(1) shall be entitled, upon correction of such personnel action, to receive for the period for which such personnel action was in effect an amount commensurate with the amount of all or any part of the pay, allowances, or differentials, as applicable, which such officer or employee normally would have earned during such period if such personnel action had not occurred, less any amounts earned by him through other employment during such period; and

Pay.

(2) for all purposes, shall be held and considered to have rendered service for such agency during such period, except that such officer or employee shall not be credited, by reason of the enactment of this Act, leave in an amount which would cause any amount of leave to his credit to exceed any maximum amount of such leave authorized for such officer or employee by law or regulation.

Leave accumu-
lation.

SEC. 4. The United States Civil Service Commission shall prescribe regulations to carry out the provisions of this Act. Such regulations shall not be applicable with respect to the Tennessee Valley Authority and its officers and employees.

Regulations;
nonapplicability.
ity.

SEC. 5. There are hereby repealed—

Repeals.

(1) section 6(b) of the Act of August 24, 1912, as amended (5 U.S.C. 652(b)); and

62 Stat. 355.

(2) that part of the third proviso of the first section of the Act of August 26, 1950 (5 U.S.C. 22-1), which reads: ", and if so reinstated or restored shall be allowed compensation for all or any part of the period of such suspension or termination in an amount

64 Stat. 477.

not to exceed the difference between the amount such person would normally have earned during the period of such suspension or termination, at the rate he was receiving on the date of suspension or termination, as appropriate, and the interim net earnings of such person".

Approved March 30, 1966.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 32 (Comm. on Post Office & Civil Service).
SENATE REPORT No. 1062 (Comm. on Post Office & Civil Service).
CONGRESSIONAL RECORD:

Vol. 111 (1965): Feb. 10, considered and passed House.
Vol. 112 (1966): Mar. 14, considered and passed Senate,
amended.
Mar. 21, House concurred in Senate
amendment.